A Seaſonable, Hiſtorical, Legal,

VINDICATION,

AND

CHRONOLOGICAL COLLECTION

Of the good *Old* Fundamental *Liberties, Franchiſes, Rights, Laws* of all *Engliſh Freemen*; (their *beſt Inheritance, Birth-right, Security*, againſt *Arbitrary Tyranny, Egyptian Slavery* and *Burdens*) of late years moſt *dangerouſly undermined, oppugned*, and *almoſt totally ſubverted*, under the ſpecious feigned *Diſguiſe* of their *Defence, Enlargement*, and *future Eſtabliſhment* upon a *ſure Baſis*.

IT is an univerſal received *Principle*, and *experimental Truth*, beyond all contradiction, *That no natural ſtructure, no arteficial Building, no Civil or Eccleſiaſtical Corporation, Realm, Reipublike, Government, or Society of men; no Art nor Science whatſoever, can poſſibly be erected, ſupported, eſtabliſhed, preſerved, or continued in their being or well being, without* FOUNDATIONS: whereon as they were at firſt *erected*, ſo they muſt neceſſarily ſtill *depend*, or elſe they will preſently fall to *utter ruine*.

Hence

Hence it is, (to wave all Humane Authorities in so clear a Verity) that in God's own sacred unerring (a) *Word of Truth*, we find frequent mention of the natural (b) *FOUNDATIONS* of the vast natural Fabrick of the Earth, Heavens, and World it self; of the Artificial Material (c) *FOUNDATIONS* of the *material Temple*, wals, *City*; *of Gods own* most famous city *Ierusalem*; and of private houses: of the Spiritual (d) *FOUNDATION* of the *Spiritual Temple*, *City Ierusalem*, and *whole Church of God*; even *Iesus Christ himself*: of the Doctrinal (e) *FOUNDATIONS*, and *first principles of Religion*, *Christianity*, *Salvation*: yea, of the Political *Governments*, *States*: which being once shaken, undermined, subverted, razed, or destroyed, bring unavoidable ruine and desolation upon them, (*Psal.* 11.3. *Psal.* 82.5,6. *Ier.* 50.17. & 51.15, 16. *Mic.* 1.6,7,9.) even as we daily see *Castles*, *Walls*, *Houses*, to fall instantly to the ground, and become an heap of Confusion, when their *Foundations* are blown up, decayed, or demolished.

(a) *Job.* 17.17. 2 *Cor.* 6.7. *Eph.* 1.12. *Ja.* 1.18
(b) 2 *Sam.* 22. 8, 16. *Iob* 38.4 6. *Psal.* 18.15. & 102.25. & 104.5. *Prov.* 8. 29. *Isa.* 24 18. & 40 21. & 48. 13. & 51.13, 16. *Ier.* 31.17. 24 *Ephes.* 4 4 *Heb.* 1.10. & 4. 3 & 9.26. 1 *Pet.* 1.20.
(c) 1 *King.* 5.17 & 6.37. & 7. 9,10. *Ezr.* 4. 3 & 6.3. *Psal.* 137. 7. *Ezek.* 41.8. *Hag.* 2.8. *Zech.* 4 9 & 8.9 *Mat.* 7 26,27. *Luke* 6. 48,49.
(d) *Isa.* 28.16. & 54.11. *Psal.* 87.1. 1 *Cor.* 3. 10,11,12. *Heb.* 11.10. 1 *Pet* 2. 6. *Rev.* 21. 14. 19.
(e) 2 *Tim.* 1.19. *Heb.* 6. 1,2.
(f) *Ier.* 50. 15. *Micah* 1. 6,7. *Luke* 6.48, 49. *Mat.* 7.26,27.

Upon which consideration, those *publike Laws*, which establish, fence, fortifie, support the *Foundamental* Constitutions, Rights, Liberties, Priviledges, of any Nation, Kingdome, Reipublike, (essential to their *being* and *subsistence*, as a *free* or *happy* people, against the *Invasions*, *Underminings*, *Encroachments*, of any *Tyrants*, *Usurpers*, *Oppressors*, or *publike enemies*, are usually stiled FUNDAMENTAL LAWS;) and have ever been reputed so *sacred*, *inviolable*, *immutable*, in all ages, upon any Pretences of *Necessity*, or *publike Safety*, that most Nations, and our own *English Ancestors*, above others, have freely chosen to hazard, (yea) lose their Estates, *Lives*, in their *just defence*, against such exorbitant *Tyrannical Kings*, and other *Powers*, who by *force* or *policy* have endeavoured to *violate*, *alter*, or *subvert* them, rather than out of *Cowardize*, *Sottishnesse*, *Carelessenesse* or want of cordial *love* to the Publike, to suffer their *unjust infringement*, *repeal*, or *alteration* of them, to the inthralling of Themselves, or their Posterities, to the *arbitrary*

trary Wills of ſuch *Domineering Tyrants*, and *Uſurping Powers.*

Now becauſe, after all our *Old* and *New* (many yeers) bloody, coſtly, dangerous *Conteſt*, and *Wars*, for the *maintenance* of our *Good Old Fundamental Liberties, Laws, Rights Priviledges*, againſt all ſecret or open *underminers* of them I clearly behold, with grief of heart, that there is a *ſtrang monſtrous Generation of NEW TYRANNICAL STATE HERETICKS* ſprung up amongſt us; who are grown ſ deſperately impudent, as not onely to *write*, but publikely to *aſſert in Print*, (in (a) *Books*, printed by AUTHORITY, even in *Capitals* in the very *Title-page*) *That the Free-men and People of England have no ſuch unalterable Fundamental Laws and Liberties left them by their fore-fathers*, (as our *Anceſtors* heretofore conteſted for, both in the Field and Parliament-Houſe, with *William* the Conqueror, *Henry* the firſt, King *John*, *Henry* the third, *Edward* 1, 2, 3. *Richard* the ſecond, with other Kings and Princes; and our late *Parliaments* and *Armies* too, with King *James*, and King *Charles*.) *That neither* Magna Charta, *nor the* Petition of Right, *nor the Laws for trying Malefactors by Juries of their peers, are Fundamentall, or unalterable*; *but that the* STATE-PHYSITIANS (or rather Mountebanks) *of our time*, (*who are not tied up to them, but left free unto themſelves*) *may lay them quite aſide, either in part or whole, as they ſee cauſe*: Yea, (having now attained to ſuch a ſuper-tranſcendent Authority, as) may (as they aſſert) LAY ASIDE ALL PARLIAMENTS and PARLIAMENTARY WAYES, *and appoint SOMETHING ELSE, as more ſeaſonable and proper to us, and as Providence makes way for it, if they ſee it more conducing to the ſafety and good of the Common-wealth*, (that is, to their own private Intereſts, Honours, Profits, Securities, Deſignes, Oppreſſions, Rapines, gilded over with this ſpecious pretext.) And then peremptorily conclude, *That to plead for theſe and other Fundamental Laws and Liberties as unalterable*, (though the onely Bulwarks and Badges of our Freedom (*is nothing elſe but to enſlave the Nation: for by ſuch a Principle, People doe not onely loſe their*

(a) Lib. tryed and caſt, p. 39, 40, 142, to 48. 154. Canne's Voice from the Temple, which perſwades the ſubverſion and aboliſhing of all former Lawes, eſpecially for Tythes & Miniſters ſupport.

Liberty, but are brought under such a kind of Tyranny, out of which (AS BEING WORSE THAN THE ÆGYPTIAN BONDAGE) there is no hope of deliverance. An absurd Tyrannical Paradox, transcending any I ever yet met with in any Author; stripping us naked of all our long enjoyed Laws, Liberties, Franchises, Great Charters at once; tending onely to reduce, and perpetually inthral us under such an absolute ÆGYPTIAN BONDAGE and *Tyranny*, without any hope of future deliverance from it, which some now endeavour to *entail* on us and our posterities for ever, by an *Iron Law*, and *Yoke of Steel*, in stead of restoring to us that *Glorious Freedome*, which we have so long expected from them in vain.

And because I find the Generality of the *Nobility, Gentry, Clergie, Commonalty*, of our Nation, after all their late yeers *expensive bloudy wars*, and *Parliamentary Disputes*, for the defence and preservation of these our Ancient Hereditary Fundamental Charters, Laws, Liberties, Priviledges, so strangely degenerated both from themselves, and their *Heroick prudent Ancestors*, as that they are more readily inclined, upon every occasion, out of a base, un-Christian, un-manly, un-English *fear*, or Scottish *cowardice* and *stupidity*, wittingly to desert, betray, surrender them all up into the hands of any *invading Usurpers*, without the least Publike Claim, Dissertation, Defence, or Dispute; then diligently or couragiously to contend for them, as of late they did: So as that which *Paul* once taxed in the slavish besotted *Corinthians*, 2 Epist. 11. 20. may be most truly averred of our *degenerated, infatuated*, English Nation: *Ye suffer if a man bring you into bondage, if a man devour you, if a man take of you, if a man exalt himself*, (above your Laws, Liberties, Franchises, Parliaments, Kings, Nobles, Properties, Lives, Consciences, and (*a*) *all that is called God, or worshipped*) *if a man smite you on the face*; notwithstanding all their manifold late (*b*) *Protestations, Vows, Covenants, Remonstrances, Declarations*, and *Publike Engagements* to the contrary. And withal, after diligent enquiry, discovering scarce one man of *Eminencie* or *Power* in

(*a*) 2 Thes. 2 4

(b) *See Exact Collect and a general Collect. of all Ordinances*, &c.

in the Nation, nor so much as one of my *degenerated temporizing* Profession of the Law, (even when the (c) *whole Body* of our Laws, and all its *Professors*, are *violently assaulted*, and devoted unto sudden ruine, by many *lawlesse spirits*) who hath so much Courage, magnanimity, Honesty, Zeal, or cordial Love to his native Country, remaining in his brest, as manfully to appear in publike, for the *strenuous necessary defence* of these our *Hereditary, Fundamentall Laws, Liberties, Rights, Franchises*, (though their own, and every other *Englisb Freeman's* best *Inheritance* and *Security*) for fear of being persecuted, imprisoned, close imprisoned, exiled, condemned, destroyed, as a Traytor, Rebell, Seditious person, Enemy to the publike, or disturber of the Kingdoms Peace, by those who are truly such: I thereupon conceived I could not undertake or perform a more necessary, seasonable, beneficial Service for my Country, (and not to be like those, who are ashamed, afraid, for the most part, to own, visit, or be seen in the company of those *Gallant men*, much lesse to assist, defend, and stick close unto them in their *dangers*, according to the sixth Article of their late *Solemn League and Covenant*, who have suffered, acted, and stood up most for their *Common Liberties, Rights, Freedoms, Religion*, against all invading Tyrants, to their great discouragement and betraying) nor pitch upon any Subject more proper for me, either as a *common Lawyer*, or as a *constant Advocate* and *Sufferer for the Publike Cause*, and *Liberties of the Nation*, as well under our late extravagant *Free-State*, as former *Regal* and *Episcopal arbitrary Tyranny*, then in this juncture of our publike affairs, to present our whole distracted unsetled *Kingdome*, with *An Historical and Legal Vindication, and Chronological Collection*, in all Ages, of these Ancient Hereditary *Liberties, Franchises, Rights, Contests, Laws, Charters, Records, Monuments* of former and late times, for their *Confirmation*, and *inviolable Observation*, which our *Ancestors* and our *Selves* have alwayes hitherto reputed FUNDAMENTAL, UNALTERABLE, INVIOLABLE, upon any pretext; and have most *eagerly contended for*, with the prodigal expence of many

(c) *See* Culpeper's & Lilly's *Merlins & Almanacks*, John Can's 2 *Voice*, Lib. *tried and cast, with many Petitions and Pamphlets against the Law and Lawyers. The Order of* Aug. 19. 1648. That there should be a Commitie selected to consider of a NEW BODY of the Law, for the government of this Commonwealth.

millions of *Treasure*, and *whole oceans* of gallant *Christian English blood*.

And if, upon the serious perusal of them, the *universality* of our *degenerated Nation*, after their many late solemn *Protestations, Vows, Leagues, Covenants, Remonstrances*, inviolably to defend and maintain them, shall still so *undervalue* them now at last, (as *most* actually have done) as *not to esteem them worth the owning, maintaining, vindicating*, or *perpetuating* any longer; and thereby draw upon their heads the *real guilt* of all those *bloody Wars, Murders, Tumults Violencies, Rapines, Oppressions, Sins, Mischiefs, Illegal Taxes, Excises, Exorbitancies*, which their many late yeers pretended *Necessary Defence* and *Preservation* have brought upon our three whole Nations; let them henceforth, like so many dastardly *conquered Bond slaves*, bored thorow the eares; publikely disavow, disclaim, renounce, abjure them, for themselves and their Posterities for ever, as meer *worthlesse toyes*, or *pernicious inventions*, fit onely to kindle perpetuall Wars and Discords between King and People, Head and Members, Superiours and Inferiours; or as poor *slender Cobwebs*, (as now they prove) fit to hold none within compasse but the very *weakest flyes*; broken thorow with *ease* and *impunity* by every *greater fly*, creeping up into any *Power* or *Supreme Authority*, by *Right* or *Wrong*; and *swept down to the very ground*, by every *New Broom* in the hand of *upstart Innovators*.

But if, upon saddest deliberation, they shall really estimate them to be such *incomparable, rich, precious jewels*, and *ancient inheritances*, as are every way worth the infinite Treasures, Warres, Blood, Cares, Consultations, Troubles, heretofore and of late yeers expended, both to gain, retain, confirm, and perpetuate them, to them and their posterities for ever, as their principal *earthly Security* and *Beatitude*; I hope they will all then unanimously henceforth conclude with the *Poet*.

Non minor est virtus quam quærere, PARTA TUERI: and both by their *Votes*, and *Actions*, return the self-same peremptory magnanimous answer to any *Cæsar, Conqueror*, *Pow-*

Potentate, Power, or Combination of men whatſoever, (who ſhall endeavour by force, fraud, or flattery, to compel or perſwade them, to ſell, reſign, betray, or give up theſe their *Anceſtrial* Priviledges, Inheritances, Birth rights, to them) as *Naboth* once did to King *Ahab*, 1 *King.* 21. 3. *The Lord forbid it us, that we ſhould give* (ſell, or betray) *the* INHERITANCE OF OUR FATHERS (and our Poſterities likewiſe) *unto thee*, or you; though they ſhould ſuffer for this Anſwer and refuſal, as much as *Naboth* did from *bloody Ahab* and *Jezebel*.

But whatever *low price* or *eſtimate* this *ſpurious, ſtupid ſordid, ſlaviſh Age* may ſet upon theſe *richeſt Pearls*; yet for my own particular, upon ſerious conſideration of theſe *Chronological Collections*, and the Solemn Oathes, Proteſtations, Vows, *League and Covenant*, obliging me to defend them to the uttermoſt; I value the whole *Nations publike*, and *my own* (with my *cordial friends*) *privat. intereſt* in them, at ſo *high a rate*, that I would rather *chearfully part with ten thouſand lives, and all the treaſures of the Nation*, were I owner of them, then wittingly, negligently, or unworthily ſell, betray, or reſign them up to any Mortals, or *Powers* whatſoever, upon any Pretences or Conditions, after all my former Publications, Conteſts, Sufferings, *&c.* for their *juſt* Defence.

Now to the end all others might now take ſpecial notice of the ineſtimable value our Anceſtors in all Ages have ſet upon them, and what ſucceſſive Wars, Conflicts, they have chearfully undertaken for their preſervation; I have, at *vacant hours* compiled this enſuing *Publication and Collection* of the *Old Fundamental Liberties, Franchiſes, Laws*, of all *Engliſh Free-men*, which I ſhall bequeath to my *moſt beloved native Country* in generall, and every reall *Heir & Patron* of them in particular, as the *beſt Legacie* I can leave behind me, both for their *preſent* and *future Enfranchiſement, Immunity, Security*, from all *Arbitrary Tyranny, Slavery*, and *yokes of Bondage*, under which they have a long time *languiſhed* and *lamented* in the *bitterneſſe of their ſpirits*.

The

The Method I resolve herein to pursue is this:

1. I shall produce some punctual *Authorities* of moment, to evidence, *That the Kingdome and Free-men of* England, *have some ancient Hereditary just Rights, Liberties, Priviledges, Franchises, Laws and Customs, properly called* FUNDAMENTAL: *and likewise a* FUNDAMENTAL *Government, no wayes to be altered, undermined, subverted, directly or indirectly, to the Publike prejudice, under pain of high Treason in those who shall attempt it, especially by fraud, force, or armed Power.*

2. I shall in brief *Propositions* present you with the chiefest and most considerable of them, which our Ancestors in former ages, and our latest real Parliaments have resolved to be, and eagerly contended for, as FUNDAMENTAL, essential to their being and well being, as a Free People, Kingdom, Reipublike, unwilling to be *enslaved* under any yokes of Tyranny, any Arbitrary *Impositions* or *Powers* whatsoever. And then give you a brief Touch of their several late *unparallel'd violations*, both by the *Edicts* and *Actions* of *usurping Powers*.

3. I shall in a *Chronological* way tender you a large *Historical Catalogue* of Contests, Votes, Declarations, Remonstrances, Oathes, Vows, Protestations, Covenants, Engagements, Evidences, Statutes, Charters, Writs, Records, Judgements, and Authorities, in all ages, undeniably evidencing, declaring, vindicating, establishing, perpetuating these *Fundamental Hereditary Rights, Liberties, Priviledges, Franchises, Customs, Laws*, and abundantly manifesting the extraordinary *care, industry, zeal, courage, wisdom, vigilancy* of our *Ancestors*, to defend, preserve, and perpetuate them to posterity, without the least *violation* or *diminution*.

4. I shall vindicate the *excellencie, indifferencie*, and *legality* of *trying* all Malefactors whatsoever by *Juries of their peers*, upon *legal Processe* and *Indictments*; and manifest the *illegality, injustice, partiality, dangerous consequences*, of admitting or introducing *any other* form of *Trials*, by *New, Arbitrary, Martial Commissions*, or *Courts of High Justice*, (or rather * *Injustice*) inconsistent with, and destructive to the *Funda-*

* *Summum jus, est summa injuria.* Cic. de Officiis, p. 611.

Fundamental Rights, Liberties, Priviledges, Laws, Franchiſes of the *Engliſh Nation*, and of moſt dangerous Preſident to Poſteriy; being ſet up by the greateſt *Pretenders* to Publike Liberty, Law, and the chiefeſt inveighers againſt Arbitrary Regal Tyranny and Power, which never publikely eſtabliſhed them by any Law, and may fall to imitate them in future Ages.

Each of theſe I intend to proſecute in diſtinct Chapters in their order.

For the firſt of theſe: *That the Kingdome and Free-men of* England, *have ſome Ancient Hereditary Rights, Liberties, Priviledges, Franchiſes, Laws and Cuſtoms, properly called* FUNDAMENTAL; *and likewiſe a* FUNDAMENTAL GOVERNMENT, *no wayes to be alt red, undermined, ſubverted, directly or indirectly, under pain of High-treaſon in thoſe who ſhall attempt it, eſpecially by fraud, force, or armed power.*

I ſhall confirm the firſt part of it, by theſe enſuing punctual Authorities of moment, againſt thoſe (*a*) *trayterous* late-publiſhed Pamphlets, which profeſſedly deny it, and endeavour a *total abrogation* of all *former Laws*, to ſet up *a New Model*, and *Body* of the *Law*, to rule us for the future, according to their Pleaſures.

(*a*) Lib. *tryed and caſt*, p. 39, 40, 142, 101, 48 *and elſewhere.* John Canne's *Voice from the Temple.* John Rogers *Mene, Tekel, Perez* p. 6. Lilly *and* Culpeper *in their prognoſtication:* Anno 1653. & 1654. See the *Armies Propoſals.*

The firſt is, the expreſſe words of the *Great Charters* of the *Liberties of England*, granted by (*b*) King *John*, Anno 1215. in the 17 yeer of his Reign; regranted and confirmed by King *Henry* the third, in the ninth yeer of his Reign, and ſundry times afterwards; and by King *Edward* the firſt, in the 25 and 28 yeers of his Raign: wherein theſe three Kings ſucceſſively, by their ſeveral *Grand Charters* under their *Great Seals*, did *grant, give*, and *confirm* to *all the Free-men of the Realm of England*, FOR THEMSELVES AND THEIR HEIRS FOR EVER, the *Cuſtoms, Liberties* therein contained; TO HAVE AND TO HOLD THEM, TO THEM AND THEIR HEIRS FROM THEM AND THEIR HEIRS FOREVER. Concluding their Charters thus: *All theſe Cuſtoms and Liberties aforeſaid, which we have granted to be holden within this our Realm, as much as appertaineth* TO US AND OUR HEIRS,

(*b*) See Matth. Paris p. 216, & Magna Chart. c. 1. 3 H. 3. c. 1. & 38. 25 E. 1. c. 1, &c. 28 E. 1, c. 1, & Cook's 2 *Inſtit.* p. 2. 77.

HEIRS, WE SHALL OBSERVE. *And* ALL MEN OF THIS OUR REALM, AS WELL SPIRITUALL AS TEMPORALL, *(as much as in them is) shall observe the same against all persons in likewise. And we have granted unto them*, THAT NEITHER WE NOR OUR HEIRES SHALL PROCURE OR DO ANY THING WHEREBY THE LIBERTIES IN THESE CHARTERS CONTAINED, SHALL BE INFRINGED OR BROKEN. *We ratifying and approving these Gifts and Graunts aforesaid*, CONFIRM *and* CORROBORATE ALL THE SAME, FOR US AND OUR HEIRS PERPETUALLY: *and by these Presents* (as the later Charters run) *do renew the same Willing and Granting*, FOR US AND OUR HEIRS, THAT THESE CHARTERS, AND ALL AND SINGULAR THEIR ARTICLES, FOR EVER SHALL BE STEDFASTLY, FIRMLY, AND INVIOLABLY OBSERVED.

Sir *Edward Cook*, (that reverend learned Judge and Professor of our Laws) in his Preface to his *Second Institutes*, and p. 2. and 77. thereof, wherein he comments on this *Great Charter*, (printed by two Orders of the House of Commons in Parliament, dated 12 *Maii*. 1641. and 30 *Junii*, 1642.) resolves in direct terms, *That the Great Charter was for the most part declaratory of the Principal Grounds of* THE FUNDAMENTAL LAWS OF ENGLAND: *That these words therein*, [*for us and our heirs for ever*] *were added to avoid all scruples*; THAT THIS GREAT PARLIAMENTARY CHARTER MIGHT LIVE AND TAKE EFFECT IN ALL SUCCESSIONS OF AGES FOR EVER. A clear Resolution, that the principal Liberties, Customs, Laws, contained in these *Great Charters*, and ratified by them, are both *Fundamental*, *perpetual*, and *unalterable*; being since *confirmed in all points by neer fourty several special Acts of Parliament* in succeeding Parliaments: and likewise by the *Solemn Oathes of our Kings*, *Nobles*, *Judges*, *Great Officers*, and of the *People* too, (all severall times *sworn to defend and maintain the same*) and by sundry *Solemn Excommunications against the infringers or contemners*

of

of them in any kind; as I shall prove more fully in the third Chapter.

The second is, the punctuall Resolution of the whole Parliament of 1 *Jacobi*, even in a printed act of Parliament, chap. 2. and of King *James* himself, in his speech therein, as is evident by this *Prologue* to that act: *Whereas his most excellent Majestie hath been pleased, out of his great wisdome and judgment, not onely to represent unto us by his own prudent and Princely Speech on the first day of this Parliament, how much he desired (in regard of his inward and gratious affection to both the famous and ancient Realms of* England *and* Scotland, *now united in allegiance, and by all subjection IN* HIS ROYAL PERSON, TO HIS MAJESTY AND HIS POSTERITY FOR EVER) *that by a speedy, mature, and sound Deliberation, such a future Union might follow, as should make perfect that mutual love, and uniformity of Maners and Customs, which Almighty God in his providence, for the strength and safety of both Realms, hath so far already begun, in apparent sight of all the world; but also hath vouchsafed to expresse many ways, how far it is, and EVER SHALL BE, from his Royal and sincere care and affection to the Subjects of* England, TO ALTER OR INNOVATE *the* FUNDAMENTAL *and* ANCIENT LAWS, PRIVILEGES and GOOD CUSTOMS OF THIS KINGDOM; *whereby not only* HIS ROYAL AUTHORITY, *but* THE PEOPLES SECURITY OF LANDS, LIVINGS, *and* PRIVILEGES (*both in generall and particular*) *are* PRESERVED *and* MAINTAINED; *and*, BY THE ABOLISHING OR ALTERATION OF THE WHICH, IT *is* IMPOSSIBLE BUT *that* PRESENT CONFUSION WIL FALL UPON *the* WHOLE STATE *and* FRAME OF THIS KINGDOM, *&c.* In which memorable Clause, these four things are observable, 1. That the Kingdom and People of *England* have Fundamental ancient good Laws, Privileges, and Customs. 2. That these are no ways to be altered or innovated; and that it always hath been, is, and ever shall be, far from the thoughts and intents of all good Kings, Governours, and Parliaments,

Nota

who bear a sincere care and affection to the subjects of *England*, to alter or innovate them. 3. That by these ancient good Laws, Privileges, and Customs, not onely the Kings Regal authority, but the peoples security of Lands, Livings, and Privileges, (both in general and particular) are preserved and maintained. 4. That by the abolishing or altering of them, *it is impossible*, but that present confusion will fall upon the whole State and frame of this Kingdome. Which I wish all *Innovators* and *New Modellers* of *our Laws*, would now at last lay seriously to heart, and the whole Kingdom and *English Nation* sadly consider, who have found it an *Experimental truth* of late yeers, and no imaginary feigned *Speculation*.

3 The third is The *Remonstrance of the whole House of Commons* in Parliament, delivered in writing to K. *James*, in the Parliament of 7 *Iac. anno* 1610. which begins thus.

To the Kings most Excellent Majesty.

Most gracious Soveraign,

See Prop. 1 & 6 in Chap 2. WHereas *We your Majesties most humble Subjects, the* Commons assembled in Parliament, *have received, first by Message, and since by Speech, from your Majestie, a Command of restraint*, from debating in parliament your Majesties Right of imposing upon your subjects goods exported out of, or imported into this Realm, *yet allowing us to examine the grievance of these Impositions, in regard of quantity, time, and other circumstances of disproportion thereto incident: Wee your said humble Subjects nothing doubting but that your Majestie had no intent by that command, to infringe* THE ANCIENT AND FUNDAMENTAL RIGHTS OF THE LIBERTY OF PARLIAMENT, *in point of exact discussing of all matters concerning them and their possessions, Goods, and Rights whatsoever; which yet wee cannot but conceive to be done in effect by this command, Do with all humble duty make this Remonstrance to your Majestie.*

First, Wee hold it AN ANCIENT, GENERAL *and* UNDOUBTED RIGHT OF Parliament, to debate Freely

freely all matters which do properly concern the Subject, and his Right or Eſtate: which freedom of debate being once ſore-cloſed, THE ESSENCE OF THE LIBERTY OF PARLIAMENT IS WITHALL DISSOLVED. *Nota.*

Here the whole Houſe of *Commons*, in a *ſpecial Remonſtrance* to King *James*, (printed and publiſhed by *Order of a Committee of the Houſe of Commons for licenſing of Books*, dated 20 *Maii*, 1641. 17 *Caroli*) declare, reſolve, vindicate, and maintain, One principal, ancient, Fundamental, general, undoubted Right of the Liberty of Parliament, againſt the Kings intrenchment on it: *Of which ſhould they be but once ſore-cloſed, the Eſſence of the Liberty of Parliament is withall diſſolved.*

And peradventure it may not be unworthy the moſt ſerious Diſquiſition of the next enſuing nominal or real *Parliament*, to examine, whether ſome *Clauſes* and *Reſtrictions* in the 9, 12, 14, 16, 17, 21, 22, 24, 25, 27, 30, 32, 33, 36, 37, 38, 39, 40. *Articles* (or Strings) of the New *Inſtrument*, intituled, *The Government of the Common-wealth of* England, Scotland, *and* Ireland, *and the Dominions thereunto belonging*, as it *was publikely declared at Weſtminſter the* 16 *day of* December, 1653. *&c.* do not ſo much, nay farre *more intrench upon the ancient, Fundamental, General, undoubted Right and Liberty of Parliament* and Parliamentary free Debates, to the diſſolution of the *Eſſential Liberty of all future Parliaments*, as this Command of King *James* did, or as the Biſhops late *Canons* impoſed on the Clergy in and by the *Convocation*, *Anno* 1640. ever did; and this Clauſe in their *&c.* Oath then made, (now imitated by others, who condemned it:) *I* A. B. *do ſwear, that I will never give my conſent* TO ALTER THE GOVERNMENT OF THIS CHURCH BY ARCH-BISHOPS, BISHOPS, DEANS, AND ARCH-DEACONS, *&c.* AS IT STANDS NOW ESTABLISHED, AND AS BY RIGHT IT OVGHT TO STAND: * *Reſolved by the whole Houſe of Commons*, and *Peers* too, without one diſſenting voyce, *in Parliament*, Decemb. 1640. to be *a moſt*

* See Cant. Doom. p. 19, 26, 40. Diurn. Occurrences, p. 13

dangerous and illegal Oath, contrary to THE RIGHTS and PRIVILEGES OF PARLIAMENT, and to th. FVNDAMENTAL LAWS & STATVTES OF THE REALM, &c. and OF DANGEROVS CONSEQVENCE. The contriving whereof was objected to the late Arch-bishop of *Canterbury*, in his *Original* and *Additional Articles of Impeachment*, to be *HIGH TREASON*; for which amongst other things, he *lost his head.*

4. The fourth is, the notable *Petition of Grievance* of the *whole House of Commons in Parliament*, presented to King *James* in the seventh yeer of his Reign, after their Vote against his right to lay any *Impositions* on Goods imported or exported, without assent of Parliament; in these ensuing words,

See Proof 1. in chap. 2.

THe policy and Constitution of this your Majesties Kingdom, appropriates unto the Kings of this Realm, with assent of Parliament, as well the Soveraign power of making Laws, as that of taxing or imposing upon the Subjects Goods or Merchandizes, wherein they have justly such a Property, as may not without their consent be altered or changed: this is the cause, that the people of this Kingdom, as they have ever shewed themselves faithful and loving to their Kings & ready to aid them in all their just occasions, with voluntary Contributions: SO HAVE THEY BEEN * EVER CAREFUL TO PRESERVE THEIR OWN LIBERTIES AND RIGHTS, WHEN ANY THING HATH BEEN DONE TO PREJUDICE OR IMPEACH THE SAME. *And therefore when their Princes either occasioned by war, or by their own bounty, or by any other necessity have without consent of Parlament set on Impositions either within the Land, or upon Commodities exported or imported by the Merchants they have in open Parliament complained of it, in that it was done without their consents*; AND THEREUPON * NEVER FAILED TO OBTAIN A SPEEDY AND FULL REDRESS, *without any* || *Claim made by the Kings, of any Power or Prerogative in that point. And though* THE LAW OF PROPERTY BE ORIGINAL, *and carefully*

* O how are they now degenerated!
Nota.
* And should they not be so now, then?
* And shal we now at last fail herein?
|| How dare then any self-created powers who are neither Kings nor Parliaments now arrogate to themselves, or exercise such a super-Regal arbitrary power and prerogative?

pre-

preſerved by the Common Lawes of this Realm, WHICH ARE AS ANCIENT AS THE KINGDOM IT SELF; *yet thoſe famous Kings, for the better contentment and aſſurance of their loving Subjects, agreed,* THAT THIS OLD FVNDAMENTAL RIGHT (obſerve the words) *ſhould be further declared,* AND ESTABLISHED BY ACT OF PARLIAMENT, *wherein it is provided, That no ſuch Charge ſhould ever be laid upon the People without their common conſents, as may appear by ſundry Records of former times.*

We therefore your Majeſties moſt humble Commons aſſembled in Parliament, * FOLLOWING THE EXAMPLE OF THIS WORTHY CARE OF OVR ANCESTORS, AND OVT OF OVR DVTY TO THOSE FOR WHOM WE SERVE, *finding that your Majeſty, without advice of your Lords and Commons, hath lately (in times of Peace)* SET BOTH GREATER IMPOSITIONS, AND FAR MORE IN NVMBER THEN ANY YOVR NOBLE ANCESTORS DID EVER IN TIME OF WAR, *do with all humility preſent this moſt juſt and neceſſary Petition unto your Majeſty,* THAT ALL IMPOSITIONS SET WITHOVT ASSENT IN PARLIAMENT, MAY BE QVITE ABOLISHED AND TAKEN AWAY. *And that your Majeſty likewiſe in imitation of your Royal* PROGENITORS, *will be pleaſed, that a Law in your time, and during this Seſſion of Parliament, may be alſo made, to declare,* THAT ALL IMPOSITIONS OF ANY KIND SET, OR TO BE SET VPON YOVR PEOPLE, THEIR GOODS OR MERCHANDIZES, SAVE ONLY BY COMMON CONSENT IN PARLIAMENT, ARE AND SHALL BE VOYD; *wherein your Majeſty ſhall not only* GIVE YOVR SVBJECTS GREAT SATISFACTION IN POINT OF THEIR RIGHT; *but alſo bring exceeding joy and comfort to them who now ſuffer, partly through the abating of the price of Native Commodities, and partly through the raiſing of all Forein, to the overthrow of Merchants, and Shipping, the cauſing of general dearth, and decay of all wealth among your people who*

Nota.
* And O that we would follow it now again!

will be therby no leſs diſcouraged, then diſabled to ſupply your Majeſty when occaſion ſhall require.

In which *memorable Petition*, the whole *Houſe of Commons* reſolve in direct terms: 1. *That the Subjects of* England *have old original Fundamental Rights*, (*and more* particularly *in the Property of their goods, exempted from all Impoſitions whatſoever in times of Peace or War, without their common conſent in Parliament*) *declared and eſtabliſhed both by the ancient Common Law of* England, *and ſundry Acts of Parliament, and Records of former times.*

2. They declare, the conſtant vigilant care, zeal of our Anceſtors and former Parliaments in all ages, inviolably to maintain defend, preſerve the ſame againſt all encroachments, together with their own care, duty and vigilancy in this kind in that very Parliament.

3. They relate the readineſs of our Kings to ratifie theſe their *Fundamental Rights* by new *Acts of Parliament*, when they have been violated in any kind.

4. They declare the benefit accruing both to *Prince* and *People*, by the inviolable preſervation and eſtabliſhment of this *old Fundamental Right*, and the miſchiefs accruing to both by the infringement thereof, by *arbitrary illegal Impoſitions, without full conſent in Parliament.*

5. They earneſtly (in point of conſcience, prudence, and duty to thoſe for whom they ſerved) Petition his Majeſty, for a *new Law and Declaration againſt all new Impoſitions & Taxes on Inland Goods, or Merchandizes imported or exported, without the Peoples free conſent in Parliament, as null, void, utterly to be aboliſhed and taken away.* Whether it will not be abſolutely neceſſary for the whole *Engliſh Nation*, and the next enſuing Notional or real *Parliament*, to Proſecute, Enact, Eſtabliſh ſuch a Declaration and Law againſt all ſuch future *arbitrary, illegal, oppreſſive Taxes, Impoſitions, Excizes*, that have been impoſed and continued for many years together on the whole Kingdom, by new extravagant, *ſelf-created*, uſurping Army-*Officers, and other Powers*, without free and full conſent of the People in *lawfull Engliſh Parliaments*, againſt all former *Laws, Declarations*, and *Reſolutions* in Parliament,

ment, to their great *oppreſſion*, enſlaving, undoing, and that in *far greater proportions, multiplicity, and variety*, hen ever in former ages, *without* the leaſt intermiſſion; and likewiſe againſt their late *declared deſign, to perpetuate them on our exhauſted Nation, without alteration or diminution*, (beyond and againſt all Preſidents of former Ages) both in times of *Peace and War for the future*, by the 27, 28, 29. 30, 30. *Articles* of the *Inſtrument* entituled, *The Government of the Common-wealth of* England, *&c.* I remit to their moſt ſerious conſiderations to determine, if ever they reſolve to be *Engliſh Freemen* again, or to imitate the *wiſdom, prudence, zeal, courage, and laudable examples of their worthy Anceſtors*, from which they cannot now degenerate without the greateſt *Infamy*, and enſlaving of themſelves with their Poſterities for ever, to the *arbitrary wills of preſent or future Uſurpers* on their *Fundamental Rights and Liberties*, in an higher degree then ever in any precedent Ages, under the *Greateſt Conquerours* or *Kings*, after all their late, coſtly, bloudy *Wars* for their *Defence* againſt the *Beheaded King*.

The fifth is, A *learned and neceſſary Argument made in the Commons Houſe of Parliament*, Anno 7. Jacobi, *to prove, That each Subject hath a propriety in his Goods; ſhewing alſo, the extent of the Kings Prerogative in Impoſitions upon the Goods of Merchants exported or imported, &c.* By a late *learned Judge of this Kingdom*, printed at *London* by *Richard Biſhop*, 1641. and *Ordered* to be publiſhed in print, *at a Committee appointed by the Honourable Houſe of Commons, for examination and Licenſing of Books*. 20. Maii, 1641. In which Parliamentary Argument, *p.* 8, 11, 16. I finde theſe direct Paſſages: *That the New Impoſitions contained in the Book of Rates, impoſed on Merchandizes imported and exported, by the Kings Prerogative, and Letters Patents, without conſent in Parliament, is againſt* THE NATURAL FRAME AND CONSTITVTION OF THE POLICY OF THIS KINGDOME, which is *Jus Publicum Regni*, AND SO SUBVERTETH THE FUNDAMENTAL LAW OF THE REALM, *and introduceth a* 5.

new

new form of State and Government: Can any man give me a reason, why the King can only in Parliament make Laws? No man ever read any Law, whereby it was so ordained; and yet no man ever read, that any King practised the contrary; Note. *therefore* IT IS THE ORIGINAL RIGHT OF THE KINGDOM, AND THE VERY NATURAL CONSTITUTION OF OUR STATE AND POLICY, *being one of the highest Rights of Soveraign Power. If the King alone out of Parliament may impose,* *HE ALTERETH THE LAW OF ENGLAND IN ONE OF THESE TWO MAIN FUNDAMENTAL POINTS; *He must either take the Subjects Goods from them, without assent of the Party, which is against the Law, or else he must give his own Letters Patents the force of a Law, to alter the property of the Subjects Goods, which is also against the Law.*

* And do not those do so, who now lay monthly Taxes, Excizes, Customs, and New-Impost on us daily out of Parliament, and that for many months and years yet to come, against the Letter of their own Instrument and Oath too?

In this and sundry other *Arguments*, (touching the *Right of Impositions*) in the Commons House of Parliament by the Members of it, arguing against them, it was frequently averred, and at last voted and resolved by the House, 7. *Jacobi*, *That such Impositions without consent in Parliament, were* AGAINST THE ORIGINAL FUNDAMENTAL LAWS AND PROPERTY OF THE SUBJECT, *and Original Right, Frame, and Constitution of the Kingdom*; as the *Notes* and *Journals* of that Parliament evidence: An express Parliamentary resolution in point, for what I here assert.

6. The sixth is, *A Conference desired by the Lords, and had by a Committee of both Houses, concerning the Rights & Privileges of the Subject*, 3. *Aprilis*, 4. *Caroli*, 1628. entred in the *Parliament Journal of* 4. *Caroli*, and since printed at *London*, 1642. In the *Introduction* to which *Conference*, Sir *Dudley Diggs*, by the *Commons House Order*, used these expressions: *My good Lords, whilst we the Commons, out of our good affections, were seeking for money, we found, I cannot say a Book of the Law, but many* A FUNDAMENTAL POINT THEREOF NEGLECTED AND BROKEN, *which hath occasioned our desire*

of

of this Conference: Wherein I am first commanded to shew unto your Lordships in general, That the Laws of England *are grounded on Reason more antient then Books, consisting much in unwritten Customs, yet so full of Justice and true Equity, that your most Honorable Predecessors and Ancestors propugned them with a* NOLUMUS MUTARI; *and so ancient, that from the* Saxons *daies, notwithstanding the injuries and ruines of time, they have continued in most parts the same, &c. Be pleased then to know,* THAT IT IS AN UNDOUBTED AND FUNDAMENTAL POINT OF THIS SO ANCIENT COMMON LAW OF *ENGLAND*, THAT THE SUBJECT HATH A TRUE PROPERTY IN HIS GOODS AND POSSESSIONS, *which doth preserve as sacred that* Meum *and* Tuum, *that is the Nurse of Industry, and the Mother of Courage, and without which there can be no Justice, of which* Meum *and* Tuum *is the proper object. But the* UNDOUBTED RIGHT OF FREE SUBJECTS, *hath lately not a little been invaded and prejudiced by Pressures, the more grievous, because they have been pursued by imprisonment, contrary to the Franchises of this Land, &c.* which the *Commons House* proved by many *Statutes* and *Records in all Ages*, in that Conference, to the full satisfaction of the Lords House; since published in print.

The seventh is, The Vote of the (*a*) *whole House of Commons*, 16. *December*, 1640. *Nullo contradicente*, entred in their *Journal*, and printed in *Diurnal Occurrences*, p. 13. *That the Canons made* in the *Convocation* (Anno 1640.) ARE AGAINST THE FUNDAMENTAL LAWS OF THE REALM, *the Property and Liberty of the Subject, the Right of Parliament, and contained divers things tending to Faction and Sedition.* 7.

(a) *See* Canterburies *Doom, p.* 19. *Diurnal-Occurrences, p.* 13.

The eighth Authority is, (*b*) The Votes of both Houses of Parliament, *concerning the security of the Kingdom of* England, *and Dominion of* Wales, 15. *Martii* 1641. *Ordered by the Lords and Commons in Parliament to be forthwith printed and published* (as they were then by themselves, and afterwards with other Votes and Orders) *Resolved* 8.

(b) *Exact Collection, &c. p.* 112, 113.

upon the Question, nemine contradicente, *That in case of* extream danger, and of his Majesties refusal, the Ordinance agreed on by both Houses for the *Militia*, doth oblige the people, and ought to be obeyed, by THE FUNDAMENTAL LAWS OF THIS KINGDOM. A very vain, false, absurd, and delusory Vote, if there be no such Laws, as some now affirm.

See Chap. 2. Proposition 3.7.

9. The ninth punctual Authority is, (a) *A second Declaration of the Lords and Commons assembled in Parliament, concerning the Commission of Array*; printed by their special *Order* of 12 *Januarii*, 1642. wherein are these observable passages. The *main drift of the Answer is to maintain*, That the King by the Common Law may grant such a Commission of Array as this is, upon this ground, *because it's for the defence of the Kingdome*: And, that the power which he hath to grant it by the *Common Law*, is not taken away by the *Petition of Right*, or any *former Statute*, but the King, notwithstanding any of them, *may charge the Subjects, for defence of the Kingdome, so as the charge imposed come not to himself, nor to his particular advantage.*

(a) *Exact Collection, p. 850. 854, 887, 888.*

*These Grounds thus laid, extend not to the Commission of Array alone, but to all other Charges that his Majestie shall impose upon his Subjects, upon pretence of Defence of the Kingdom: for there is the same reason of Law for any other Charge that is pretended for Defence, as for this. If his Majestie by the Common Law may charge his Subjects to finde Arms, and other things in the Commission enjoyned, because they are for Defence of the Kingdom; by the same reason of Law, he may command his people to build Castles, Forts, and Bulworks, and after to maintain them with Garisons, Arms, and Victuals, at their own charges: And by the same reason he may compel his subjects to finde Ships, and furnish them with Men, Ammunition, and Victuals, and to finde Souldiers pay, Coat and Conduct-Money; provide Victuals for Souldiers, and all other things NECESSARY FOR AN * ARMY; these things being as necessary for Defence, as any thing that can be done*

* *Do not the Army Officers now enforce them to all this without a Parliament?*

done in execution of this Commission. And for that exposition of the Petition of Right, and other Statutes therein noted, (if it should hold) doth it not overthrow, as well the Petition it self, as all other Lawes that have been made for the Subjects benefit against Taxes and other Charges, either in this or any other Parliament?

These Positions thus laid down and maintained, DO SHAKE THE FUNDAMENTAL LAWS OF THE KINGDOM, (THE ANCIENT BIRTH-RIGHT OF EVERY SUBJECT) both for THE PROPERTY OF HIS GOODS, AND LIBERTY OF HIS PERSON: *Nay, they strike at the root of Parliaments: What need his* **Majesty call Parliaments to provide for Defence of the Realm, when himself may compel his Subjects to defend it without Parliaments? If these grounds should hold, what need the Subjects grant Subsidies in Parliament for Defence of the kingdom in time of real danger, if the King for defence at any times, when he shall only conceive or pretend danger, may impose Charges upon his Subjects without their consent in Parliament?*

* *These Expostulations reach to those at* White-Hall *now, who presume to impose Taxes, Customs, Excises, and make binding Laws, which no Kings there ever did in like nature, nor their Counsels in any Age.*

Upon that which hath been said in this and our former Declaration, *we doubt not but all indifferent men will be satisfied, that this Commission of Array is full of danger and inconvenience to the Subjects of* England, AND AGAINST THE FUNDAMENTAL LAWS OF THE LAND, both for PROPERTY OF GOODS, AND LIBERTY OF PERSON, &c. 2. *As it is against* THE FUNDAMENTAL LAWS OF THE REALM, *so no Statute makes it good, &c. And the Lords and Commons do upon the whole matter here conclude, that they* are very much aggrieved, that after so many Declarations and solemn Protestations made by his Majesty to rule by the known Laws of this Land, *his Majesty by advice of his ill-Counsellors should be perswaded to set such a* Commission on foot, which is so clearly contrary TO THE FUNDAMENTAL LAWS OF THIS LAND, the Right of Property, and Liberty of the Subject, *contrary to former* Resolutions of Parliament, *and to the* Petition of Right.

I am certain the generality of the Nation are now as *much* and more *aggrieved*, that some who were Parties to this *Declaration*, and others who have made as many or more *Declarations* and *Protestations* as his *Majesty* ever did, to *rule by the known Laws of the Land*, should since this, far exceed his Majesty in the like, or more exorbitances in the *Militia*, Excises, Taxes, Impositions, Imprisonments, arbitrary extravagant proceedings, and capital executions in new-*erected Courts of Injustice*, as diametrically contrary as the Kings Commissions of *Array*, to the *Fundamental Laws of the Land* (four times together so stiled and insisted on, as such, in this one Declaration of both Houses) *the Right of Property of the Subject, contrary to former Resolutions*, and the *Petition of Right*; yea (which is most abominable) to their own *Declarations, Remonstrances, Votes, Protestations, Vows, Solemn Leagues and Covenants* in Parliament, to their own eternal *Infamy*, as well as the peoples intolerable oppression and *Slavery*, who thereupon may justly conclude and protest against them, as both *Houses did in the close* of that Declaration against the *Array*, viz. * *And the* Lords and Commons do and shall adhere to their former Votes and Resolutions, That all those that are Actors in putting of this Commission of Array in execution, shall be esteemed disturbers of the Peace of the Kingdome, and the Properties and Liberties of the Subject.

*Exact Collection, p. 228.

10. The tenth evidence is, (*a*) the *Vote and Letter of both Houses of Parliament* sent to his Majesty at *Oxford* 9. *March* 1643. in answer to his *Majesties* of the third of *March*, wherein there is this passage: *We the Lords and Commons assembled in the Parliament of* England, *&c.* have resolved, with the concurrent advice and consent of the *Commissioners of Scotland*, to represent to your Majesty in all humility and plainness as followeth; *That this present Parliament convened according to the known and* FUNDAMENTAL LAWS OF THE KINGDOM (*the continuance whereof is established by a* Law *consented to by your Majesty*) *is in effect denied to be a Parliament, &c.* And hereupon

(*a*) *A Collection of all publick Orders, Ordinances and Declarations of Parliament, p.* 451, 452, 457, 458.

upon we think our ſelves bound to let your Majeſty know, *That ſince the* * *continuance of this Parliament is ſetled by a* Law, (*which, as all other* Laws *of your Kingdom, your Majeſty is ſworn to maintain, as we are ſworn to our Allegiance to your Majeſty, theſe Obligations being reciprocal*) *we muſt in duty, and accordingly are reſolved, with our lives and fortunes, to defend and preſerve the juſt Rights and full Power of this Parliament:* To which the *Earl of Eſſex* (then General) by both *Houſes direction*, in his Letter to the *Earl of Forth*, *Jan.* 30. 1643. adds this Corollary, *My Lord, the maintenance of the Parliament of* England, *and the Priviledges thereof, is that for which we are all reſolved to ſpend our bloud, as being* THE FOUNDATION WHEREON ALL OUR LAWS *and* LIBERTIES ARE BUILT: Which both the *Lords and Commons aſſembled in Parliament*, in their *Declaration* of 23. *Martii* 1643. touching their proceedings upon his Majeſties Letter concerning a *Treaty of Peace*; (wherein this Earls former Letter is recited) thus ſecond: *The Parliament of* England *is the only Baſis, the chief Support and Pillar of our* Laws *and* Liberties, *&c.* And if notwithſtanding all theſe Obligations, the King ſhall * at his pleaſure diſſolve this Parliament, the Kingdom is not only deptived of the preſent, but made uncapable of enjoying the benefit of any future Parliament or Laws, any longer then ſhall ſtand with the will and pleaſure of the King, and conſequently THE FUNDAMENTALS OF ALL OUR LAWS & GOVERNMENT ARE SUBVERTED. Let the Parliament-diſſolving *Officers*, *Army*, and their *Confederates* ſeriouſly ponder this, with all who ſhall hereafter ſit in *Parliament*, conſider it in the *firſt place*.

* *Yet forcibly diſſolved by the Army, and ſome now in Power, againſt their Commiſſions, Oaths, Truſts, Proteſtation, Covenant, and an Act of Parliament for their continuance; who may do well to peruſe this clauſe. See* Chap. 2. *Propoſition* 6, 7.

* *How much more then, if the Army, or Army-Officers ſhall do it, without queſtion or exemplary puniſhment again and again, and juſtifie it ſtill in print?*

The eleventh is, the (*a*) *Ordinance of both Houſes of Parliament*, 13. *Junii* 1644. for the Forces raiſed in the County of *Salop*, which begins thus: *The Lords and Commons aſſembled in Parliament, taking into their ſerious conſiderations, the great oppreſſions under which the Inhabitants of the County of* Salop, *by reaſon of inſupportable Taxes, &c. and the preſent condition of the County, by reaſon of*

11.

(*a*) *A Collection, &c. p.* 504.

the

the great number of Irish Rebels that have invaded it, and joyned with Papists and other ill-affected persons now in those parts, doth threaten the extirpation of the Protestant Religion, and the subversion of the FUNDAMENTAL LAWS and GOVERNMENT of the Kingdom. For prevention whereof, &c.

12. The twelfth is, (b) *A Declaration of the Commons of* England *assembled in Parliament*, 17 Aprilis 1646. *of their true intentions concerning the* ANCIENT & FUNDAMENTAL GOVERNMENT OF THE KINGDOM, *securing the people against* ALL ARBITRARY GOVERNMENT, *&c.* wherein they complain, *that the Enemy being in despair to accomplish his designs by War, do misrepresent our intentions in the use we intended to make of the great Successes God hath given us, and the happie opportunity to settle Peace and truth in the three Kingdoms; to beget a belief that we now desire to exceed or swerve from our first Aims and Principles in the Undertaking of this War, and to recede from the Solemn League and Covenant, and Treaties between the two Kingdoms; and that we would prolong these uncomfortable troubles, and bleeding Distraction, IN* * ORDER TO ALTER THE FUNDAMENTAL CONSTITUTION & FRAME OF THIS *KINGDOM, to leave all Government in the Church loose and unsettled, and our selves to exercise THE SAME ARBITRARY POWER OVER THE PERSONS & ESTATES OF THE SUBJECTS, which this present Parliament hath thought fit to abolish, by taking away the Star-Chamber, High Commission, and other Arbitrary Courts, and the exorbitant Power of the Council Table*: (all which we have seen since experimentally verified in every particular in the highest degree, notwithstanding this *Declaration*, by some in late and present Power, notwithstanding this Publication:) *All which being seriously considered by us, &c.* We do declare, THAT OUR TRUE & REAL INTENTIONS ARE, & OUR ENDEAVOR SHALL BE, *to settle Religion in the purity thereof,* * TO MAINTAIN THE ANCIENT & FUNDAMENTAL GOVERNMENT OF THIS KINGDOM, TO PRESERVE THE RIGHTS & LIBERTIES OF

(b) *A Collection, &c. p. 877, 878, 879.*

* *And is not this now proved a real experimental Truth, in some of these Remonstrants, to their shame?*

* *And can most of these Remonstrants in late or present power, now say this in truth & reality? And must not they be utterly ashamed, confounded before God and men, when they consider how they have dissembled, prevaricated with God and men herein in each particular?*

OF THE SUBJECT; *to lay hold on the first opportunity of procuring a safe and well-grounded Peace in the three Kingdoms, and to keep a good understanding betwegn the two Kingdoms of* England *and* Scotland, *according to the grounds expressed in the Solemn League and Covenant:* And lest these *Generals should not give a sufficient satisfaction*, we have thought fit, to the end *men might no longer be abused in a misbelief of our intentions, or a misunderstanding of our actions, to make this further enlargement upon the particulars.*

And first, *concerning Church-Government, &c. because we cannot consent to the granting of an Arbitrary and unlimited Power and Jurisdiction, to erect ten thousand Judicatories to be erected within this Kingdom, and this demanded in such a way, as is not consistent with* THE FUNDAMENTAL LAWS & GOVERNMENT OF THE SAME, &c. *Our full Resolutions still are, sincerely, really and constantly to endeavour the Reformation of Religion, in the Kingdoms of* ENGLAND & IRELAND, *in Doctrine, Worship, Discipline, and Government, according to the Word of God, and the example of the best Reformed Churches, and according to the Covenant.*

WE ARE * SO FAR FROM ALTERING THE FUNDAMENTAL GOVERNMENT OF THIS KINGDOM BY KING, LORDS & COMMONS, *That we have only desired, that with the consent of the King, such Power may be setled in the* TWO HOUSES, *without which we can have no assurance, but that the like, or greater mischiefs then those which God hath hitherto delivered us from, may break out again, and engage us in a second and more destructive war; whereby it plainly appears,* OUR INTENTIONS ARE NOT TO CHANGE THE ANCIENT FRAME OF GOVERNMENT WITHIN THIS KINGDOM, *but to obtain the end of the Primitive Institution of all Government,* THE SAFETY & WEAL OF THE PEOPLE; not judging it wise or safe, *after so bitter experience of the bloudy Consequences of a* * *pretended Power of the Militia in the King, to leave any strange New colourable authority in the same for the future attempts of introducing* AN ARBITRARY GOVERNMENT OVER THIS NATION: *and further do declare, That we will not, nor any by colour of any Authority derived from us, shall interrupt the* † *ordinary course of Justice, in the several Courts and Judicatories of this Kingdom, nor intermeddle in cases of private interest otherwise determinable, unless it be in case of Male-Administration of Justice; wherein we shall see and provide, that Right be done, and punishment inflicted, as there shall be occasion,* ACCORDING TO THE LAWS OF THE KINGDOM.

Lastly, *whereas both Nations have entred into a Solemn League and Covenant; we have, and* EVER SHAL BE VERY CAREFUL DULY TO OBSERVE THE SAME: *That as nothing hath been done,* SO NO-

* *And can the new Modellers of our Government over and over, who were parties to this Declaration, and then Members of the Commons House, say so now? or read this without blushing and self-abhorrence?*

* *Is not a superintendent power in and over the Army, above and against the Parliament or People, far more dangerous and likely to introduce such an Arbitrary Government in the Nation, if left in the General Officers, or their Councils power?*

† *Did not the imposing a strange New Engagement, and finally arbitrary Committees of Indemnity, &c. interrupt it in the highest degree; and the misnamed* High Courts of Justice, *and whole clause?*

NOTHING SHALL BE DONE BY US REPUGNANT TO THE TRUE MEANING AND INTENTION THEREOF, &c. WHO WILL NOT DEPART FROM THOSE GROUNDS AND PRINCIPLES, *upon which it was framed and founded.*

Though the Generality of the afterwards-*secured and secluded Majority of the House of Commons*, endeavoured constantly to make good this *Declaration* in all particulars; yet how desperatly the garbled *Minority* thereof, continuing in power after their Seclusion, prevaricated, apostatized, and falsified their Faith and Engagements herein in every particle in the highest Degree, we cannot but with greatest grief of heart, and detestation remember, to the subversion, *ruine of our King, Lords, Commons, Kingdom, Parliaments, Fundamental Laws, Government, and the Peoples Liberties*, &c. almost beyond all hopes of *restitution* or *reparation* in humane probability, without a miracle from heaven. The Lord give them grace most seriously to consider of, repent, and really, sincerely, reform it now at last, and not still add drunkenness to thirst, lest they bring them to temporal and eternal condemnation for it in Gods own due time, and engender endless Wars, Troubles, Taxes, Changes, Confusions in our Kingdoms, as they have hitherto done.

By this *full Jury of Parliamentary Authorities*, to omit many others of *like* or (a) *inferiour* nature, and less moment, it is undeniable; *That the People of* England *have both ancient Fundamental Rights, Liberties, Franchises, Laws, and a Fundamental Government; which like the Laws of the* Medes *and* Persians, *neither may, or ought to be altered, violated, or innovated upon any pretence, but perpetually maintained, defended, with greatest care, vigilancy, resolution*; and he who shall still deny or oppugne it, deserves no *refutation* by further arguments, since it is a received Maxime in all Arts, *Contra Principia negantem, non est disputandum*; but rather demerits a *sentence of Condemnation, and publike Execution at* Tyburn, *as a common Enemy, Traytor to our Laws, Liberties, Nation*; it being no less then a *transcendent Crime, and* High Treason *by our Laws, for any person or persons, secretly or openly, to attempt the undermining or subversion of our Fundamental Laws, Rights, Liberties, Government, especially by fraud, treachery, force, or armed power and violence* (the later part of my first Proposal) which I shall now confirm by these twelve following Presidents and Evidences, corroborating likewise the former part, *that we have such Fundamental Laws, Liberties, Rights, Franchises*, and a *Fundamental Government* too.

(a) *See the Humble Remonstrance against the Illegal Tax of Ship-money, p. 1, 2, 3. The Case of Ship-money briefly Discussed, p. 2. &c. Englands Birth-right, and other Treatises.*

In

In the[b] fifth year of *King Richard the second*, the vulgar *rabble of people and villains in Kent, Essex, Sussex, Norfolk, Cambridgeshire, and other Countreys*, under the Conduct of *Wat Tyler, Jack Straw* and other Rebels, assembling together in great multitudes, *resolved by force and violence to abrogate the Law of villenage, With all other Lawes they disliked, formerly setled; to burn all the Records, kill and behead all*: the Judges, Iustices, *and men of Law of all sorts, which they could get into their hands*; to burn and destroy the Innes of Court, (as they did then the new Temple, where the Apprentices of the Law lodged, burning their Monuments and Records of Law there found) to alter the Tenures of Lands, to devise new *Laws* of their own, by which the Subjects shold be governed, to change the *ancient Hereditary, Monarchicall Government of the Realm, and to elect petty elective Tyrannies and Kingdoms to themselves in every Shire*: (a project eagerly prosecuted by some *Anarchical Anabaptists, Jesuits, and Levellers* very lately,) and though withall they *intended to destroy the King at last, and all the Nobles too, when they had gotten sufficient power*, yet at first to cloak their intentions for the present, they took *an Oath* of all they met; *Quod Regi & communibus fidelitatem servarent*, that they should keep allegeance and faith to the King and Commons; this their resolution and attempt thus to alter and *subvert the Laws & government*, upon full debate in the *Parliament* of 5. *R.* 2. *n* 30, 31. was declared to be *High Treason*, against the King and against the *Law*, for which divers of the chief Actors in this *Treasonable design* were condemned and executed, as Traitors, in several places, and the rest enforced to a *publike submission*, and then pardoned.

b *Wasingham, Stow, Hollinshed, Speed, Grafton, Baker, and* R. 2: John Stows *Survay of London, p.* 89 to 103: *Mr. St.* Johns *argument at Law, at Strafords attainder* p. 4.

2. In the[a] *Parliament* XL. R. 2. (as appears by the *Parliament Rolls* and printed *Statutes* at large) three *Privie Counsellors*, the *Archbishop of York*, the *Duke of Ireland*, and *Earl of Suffolk*, the Bishop of *Exeter* the Kings Confessor, five Knights, six Judges, (whereof Sir *Robert Tristlian*, Chief Justice was one) *Blake* of the Kings Councel at Law, *Usk* and others, were *impeached and condemned of High Treason, some of them executed as Traytors, the rest banished, their Lands*

a *Stow, Hollinshed, Speed, Grafton, Baker in* XI R. 2. *and* 1 H. 4. *Statutes at large,* 11 *and* 21. R. 2. *&* 1 H. 4. *St.* Johns *Speech concerning the supremacy of Judges, p.* 8 to 37: *and argument at Law, at Straffords attainder.*

and goods forfeited, and none to endeavour to procure their pardon, under paine of Felony, for endeavouring to overthrow a Commission for the good of the Kingdome, and contrary to an Act of Parliament of force of armes and Opinions in Law delivered to the King, tending to subvert the Laws and Statutes of the Realm, overthrow the Power, Priviledges, and proceedings of Parliament, *and betray (not all the house of Lords,* but only *) some of the Lords of Parliament,* which Judgment being afterwards reverted in the *forced, and packed Parliament* of 21. R. 2. was *reconfirmed* in the *Parliament* of 1 H.4. c 3. 4,5. and the *Parliament* of 21. R. 2. *totally repealed, and adnulled for ever,* and hath so continued.

3. In the [a] Parliament of 17 R. 2. n, 20. and Pas. 17. R. 2. B. R. S. Rot 16. Sir *Thomas Talbot* was accused and found *guilty of High Treason for conspiring the death of the Dukes of Gloceſter, Lancaſter and other Peers, who maintained the Commiſsion confirmed by act of Parliament, X R. 2. and aſſembling people in a warlike manner in the County of Cheſter, for the effecting of it, in deſtruction of the Eſtates of the Realm;* and OF THE LAWES OF THE KINGDOME.

[a] *Mr. St. John at Law againſt Straffords Attainder, p. 13: 14, 17.*

4. In the 29. year of King *Henry* the ſixth, *Jack Cade,* under a pretence to REFORM, *alter, and abrogate ſome Laws, Purveyances and extortions importable to the Commons* (whereupon he was called JOHN AMEND ALL) drew a great multitude *of Kentiſh people to Black Heath* in a warlike manner to effect it: in the *Parliament* of 29. H. 6. c. 1. this was adjudged *High Treaſon in him and his Complices;* by act of Parliament: and the *Parliaments* of 31. H. 6. c, 1. made this memorable Act againſt him, and his Imitators in ſucceeding ages; worth ſerious peruſual and conſideration by all who tread in his footſteps and over-act him in his Treaſons.

"*Whereas the moſt abominable Tyrant, horrible, odious, and* "*errant* FALSE TRAITOR, *John Cade, calling himſelf* "*ſometimes* Mortimer, *ſometime Captain of* Kent, (which "Name, *Fame, acts and Feats, to be removed out of the ſpeech and* "*mind of every faithful Chriſtian man, perpetuallt,*) *falſly and* traytor-

'*trayterously purposing and imagining the pertual destruction of*
'*the* KINGS PERSON *and* FINALL SUBVERSION
'OF THIS REALM, *taking upon him* * ROYALL
'POWER, *and gathering to him the Kings people in great*
'*number*, BY FALSE, SVBTIL, IMAGINED LAN-
'GVAGE, *and seditiously made a stirring Rebellion, and in-*
'*surrection*, under Colour of Justice for Reformation
'of the LAWS of the said KING, robbing,
'slaying, spoiling a great part of his faithfull People:
'Our said Soveraign Lord the King, considering the
'promises with many other, which were more odious
'to remember, by advice and assent of the LORDS
'Spirituall and Temporall, and at *THE REQVEST*
'*OF THE COMMONS*, and by authority aforesaid,
'*hath ordained and established, that the said Iohn Cade shal*
'*be had named and declared a false Trayter to our said*
'*Soveraign Lord the King*; and that all *His Tyranny.*
'*Acts, Facts, false Opinions, shall be voyded, abated, annul-* *Nota.*
'*led, destroyed, and put out of remembrance for ever*, And
'that *all indictments in time coming, in like case under power of*
'*Tyranny, Rebellion* and *stirring had, shall be of no regard, nor*
'*effect, but void in Law*: and all the petitions * *delivered*
'*to the said King in his last* Parliament *holden at* Westminster,
'the sixth day of *November*, the 29. *of his Reign, against*
'*his mind, by him not agreed, shall be taken and put in oblivion*
'*out of remembrance, undone, voided, annulled and destroyed,*
'*for ever as a thing purposed against God and his Conscience,*
'*and against his royall estate and preheminence, and also dishо-*
nourable, and unreasonable.

* And have not others of late assumed to themselves more royal power than he resolved to be treason by 21. E. 3. rot. Parl. n. 15

* To wit. by Cade and his confederates for the alteration of the Laws, &c.

5. In the 28 year of King *Henry* the 8. *William Bell* and *Thomas Lacy*, in the County of *Kent* conspired with *Thomas Cheyney* (the Hermite of the *Queen of Fairies*) TO OVERTHROW THE LAWS AND CVSTOMS OF THE REALM: for effecting whereof, they with 200. more met together, and concluded upon a cause, or raising greater forces in *Kent*, and the adjacent *shires*, this was *adiudged high treason*, and some of them *executed as traytors*. Moreover it [b] *was resolved by all the Judges of*

[a] See Mr. St. Johns argument against Strafford; 17 H. 6. Chronicle and Hollinshed

[b] Cooks 3 Institutes, p. 9, 10.

in the reign of Henry 8. *that an Insurrection against the Statute of Labourers, or for the inhansing of salaries and wages was Treason, a levying War against the King*, Because it was generally against the KINGS LAW, and the Offenders tooke upon them the REFORMATION thereof, which Subjects by gathering of power, ought not to do.

a Cooks 4 institutes, ch.8. p.89. to 96.

6. On a *December* 1. in the 21. yeer of King *Henry* the 8. Sir *Thomas Moor*, Lord Chancellor of *England*, with 14. more, Lords of the Privy Counsell, *John Fitz James*, Chief Justice of England, and Sir *Anthony Fitzherbert*, one of the Judges of the Common Pleas, exhibited sundry Articles of Impeachment to King *Henry* the 8. against Cardinall *Wolsy*, That he had by divers and many sundry ways and fashions committed High Treason, and notable grievous offences, misusing, altering and subverting the order of his Graces Laws, and otherwise; contrary to his high Honour, Prerogative, Crown, Estate and Dignity Royall, to the inestimable great hinderance, dimunition and decay of the universal Wealth of this his Graces Realm. The *Articles* are 43. in number: The 20, 21, 26, 30, 35, 47, 42, 43. contain, his illegal, arbitrary practices and proceedings to the subversion of the due course and order of his Graces Laws, to the undoing of a great number of his loving people. Whereupon they pray, *Please therefore your most excellent Majesty of your excellent goodness towards the Weal of this your* Realm, *and* Subjects of the same, *to see such order and direction upon the said Lord Cardinal*, as may bee to terrible example of others, to beware to offend your Grace and your Lawes hereafter: *And* that he be so provided for, that he never have any power, jurisdiction or authority hereafter, to trouble, vex, or impoverish the Commonwealth of this your Realm, as he hath done heretofore, to the great hurt and dammage of every man almost, high and low. His * poysoning himself prevented his Judgment for these his practises.

* See Speed Hollinshed Grafton Stow Antiquitates Eccles. brit. p. 378. & 379. and Goodwin in his life time.

7. The b Statute of 1. *Marie* c. 12. Enacts, that if 12. or more shall endeavour by force to alter any of the laws or statutes of the Kingdome: the offender shall from the time therein limited

b Mr. S Johns argument against Stafford

limited be adjudged ONELY AS A FELON: whereas it was Treason before, but this act continuing but till the next Parliament, and then expiring, the offence remains Treason as before.

8: In the 39. of Queen *Elizabeth* divers in the County of *Oxford* consulted together, to go from house to house, in that County, and from thence to *London* and other parts to excite them to take arms for the throwing down of inclosures throughout the Realm; nothing more was prosecuted, nor assemblies made; yet in *Easter Term* 39. *Elizabeth*, it was resolved by all the Judges of England (who met about the case) That this was High Treason, and a levying Warre against the Queen, because it was to throw down all inclosures throughout the Kingdome to which they could pretend no right, and that the end of it was to overthrow the Laws and Statutes for Inclosures. Whereupon BRADSHAW and BVRTON (two of the principall offenders) were condemned and executed at *Aiciston* Hill in *Oxfordshire*, where they intended their first meeting.

a *Cook 3 inst. c. 1, 9, 10 and Mr. St. Johns argument at Law, against Strafford p. 15, 16.*

9. To come nearer to our present times and case. In the last Parliament of King *Charls. Anno* 1640. 1641 b The whole House of Commons impeached *Thomas* Earle of *Stafford*, Lord Deputy of *Ireland* of high Treason, amongst other *Articles*, for this crime especially (wherein all the other centred,) that he Treasonably endeavoured by his Words, actions and Counsels, to subvert the Fundamentall Lawes of ENGLAND and IRELAND, and introduce an arbitrary and Tyrannicall Government. This the whole parliament declared and adjudged to be High treason, in and by their votes, and a speciall act of parliament for his attainder; for which he was condemned and soon after executed on *Tower Hill* as a traytor to the King and Kingdome, May 12. 1641.

b *See the Journals of both houses, and all for his attainder, Mr. Pyms Declaration upon the whole matter of the Charge of High Treason against him, April the 12. 1641. Mr. St. Johns argument at Law at his attainder, and Diurnal Occurrences.*

10. The whole House of Commons the same *Parliament* impeached *William Laud* arch-bishop of *Canterbury* of HIGH TREASON, in these very Terms, February 6. 1646.

c *See the Commons and Lords Journals, his printed impeachment: Mr. Pyms Speech thereat. Canterburies Dirm. p. 25, 26 27, 38, 40.*

First, that he hath trayterously endeavoured

Fundamental Lawes and Government of this Kingdome of *England*, *and inſtead thereof to introduce* an Arbitrary and Tyrannical Government againſt Law: ' *And hee to that end* ' *hath wickedly and Traiterouſly adviſed his Majeſty, that hee* ' *might at his own Will and pleaſure, levy and take Money* ' *of his Subjects without their conſent in parliament, and this hee* ' *affirmed was warrantable by the Law of God.*

See chap. 3. Propoſition 1.

' Secondly, He hath for the better accompliſhment of that ' his Trayterous deſign, adviſed and procured Sermons and ' other Diſcourſes, to be preached, printed and publiſhed, ' in which the authority of parliaments, and the force of ' the *Laws* of this *Kingdome* have been denyed, and abſolute ' and unlimited power over the perſons and eſtates of his *Ma-* ' *jeſties Subjects* maintained and defended, not onely in the ' *King*, but in himſelf and other Biſhops againſt the *Law*.

' Thirdly, he hath by *Letters, Meſſages, Threats* and *pro-* ' *miſes*, and by divers other ways to Judges, and other Mi- ' niſters of Juſtice, interrupted, perverted, and at other ' times by means aforeſaid hath endeavoured to interrupt and ' pervert the courſe of Juſtice in his Majeſties Courts at *Weſt-* ' *minſter* and other *Courts*, to the ſubverſion of the ' LAWES of this KINGDOME, whereby ſun- ' dry of his Majeſties Subjects have been ſtopt in their ' juſt ſuits, deprived of their lawfull Rights, and ſubje- ' cted to his Tyrannicall will, to their ruine and deſtru- ' ction.

' Fourthly, That he hath Traytorouſly endeavoured to cor- ' rupt the other Courts of Juſtice, by adviſing and procu- ' ring his Maieſty to ſell places of Judicature, and other offices, contrary to the Laws and Cuſtomes in that behalf.

" Fifthly, He hath Traytorouſly cauſed a Book of ' Canons to be compiled and publiſhed, without any ' Lawfull warrant and authority in that behalf; in which ' pretended Canons many matters are contained, contrary ' to the Kings prerogitive, to the Fundamentall Laws and ' ſtatutes of this Realm, to the Rights of Parliament, ' to the property, and Liberty of the ſubject, and *mat-*

' *ters*

'ters tending to sedition and of dangerous consequence; and to 'the establishing of a vast, unlawful, presumptuous power in 'himself and his successors, &c.

'Seventhly, That he hath trayterously endeavoured to alter & subvert Gods true Religion *BY LAW ESTABLISHED*, and instead thereof to set up Popish Religion and Idolatry, And to that end hath declared, and maintained in 'Speeches and printed Books, divers popish doctrines, 'and opinions, contrary to the Articles of Religion, '*ESTABLISHED BY LAW*. Hee hath urged and 'enjoyned divers popish and superstitious Ceremonies, '*WITHOUT ANY WARRANT OF LAW*; 'and hath cruelly persecuted those who have opposed the 'same, by corporal punishments, and imprisonments, and most 'unjustly vexed others, who refused to conform thereunto by 'Ecclesiastical Censures, Excommunication, Suspension, Deprivation, and Degradation, contrary to the Laws of this 'Kingdome.

'13. He did by his own authority and power, contrary 'to Law, procure sundry of his Majesties Subjects, and enforced the Clergy of this Kingdome to contribute towards 'the maintenance of the war against the *Scots*.

'That to preserve himselfe from being questioned for 'these and other his Trayterous Courses, hee hath laboured to *Subvert the Rights of Parliament, and the ancient 'Course of parliamentary proceedings*, and by false and malicious slanders to incense His Majesty against Parliaments.

All which being proved against him at his Tryall, were after solemn Argument by Mr. *Samuel Brown* in behalf of the Commons House proved, and soon after adjudged, to be *High Treason at the Common Law*, by both Houses of Parliament; and so declared in the Ordinance for his Attainder: for which he was condemned and beheaded as a Traytor against the King, Law, and Kingdom, on Tower-hil, *January* 10. 1644.

11. In the[a] same Parliament, *December* 21. *Jan.* 14. *February* 11. 1640. and *July* 6. 1641. Sir *John Finch*, then Lord

a *See the Commons and Lords Journals, Diurnal Occurrences, p.* 15. 16. 19. 37 191. *to* 264. *and M.S.* Johns *Speech at a conference of both Houses of Parliament concerning shipmoney and these Judges. Together with the Speeches of M.* Hide *Mr.* Walker, *Mr.* Pierpoint, *Mr.* Denzil Hollis, *at their impeachments*, July 16. 1641. *aggravating their offences in Diurnal Occurrences and Speeches.*

Lord Keeper, chief Justice *Bramston*, Judge *Berkley*, Judge *Crawley*, Chiefe Baron *Davenport*, Baron *Weston*, and Baron *Turnour*, were accused and impeached by the House of Commons, by several articles transmitted to the Lords of High Treason, for that they had Traitorously and wickedly endeavoured to subvert the Fundamentall Laws and established Government of the Realm of *England*, and instead thereof to introduce an arbitrary and Tyrannicall Government against Law; which they had declared by traiterous and wicked words, opinions judgment, and more especially in this their extrajudicial opinion subcribed by them in the case of ship-money, viz. We are of opinions that when the good and safety of the kingdome in general is concerned, and the whole kingdome in danger; your majesty may by writ under the great Seal of *England* (without consent in parliament) command all your subjects of this your kingdome, at their charge to provide and furnish such a number of ships, with men victual and ammunition, and for such time as your Majesty shall think fit, for the defence and safeguard of the kingdome, from such danger and peril: and we are of opinion, that in such case, your Majesty is the sole Judge both of the danger and when, and how, the same is to be prevented and avoided; and likewise for arguing and giving judgment accordingly in Master *John Hampdens* case, in the *Exchequer Chamber*, in the point of ship money in *April* 1638. which said opinions are Destructive to the Fundamentall Laws of the Realm, the subjects right of propriety; and contrary to former Resolutions in parliament, and the petition of right; as the words of their several Impeachments run. Sir *John Finch* fled the Realm to preserve his head on his shoulders, some others of them died through fear, to prevent the danger soon after their Impeachments and the rest put to Fines, who were lesse peccant.

See ch. 2. Propposition 1.

12. Mr. *John Pim*, in his Declaration upon the whole matter of the Charge of High Treason against *Thomas* Earle of *Stafford*, April 12. 1641. before a Committee of both Houses of Parliament in *Westminster hall*; printed and published by order of the house of Commons, proves his endeavour to

to ſubvert *the fundamentall Law of England*, and to introduce an Arbitrary Power; to be *High Treaſon*, and an offence very hanious in the nature, and miſchievous in the effects thereof; which (ſaith he) will beſt appear, if it be examined by that univerſall and ſupream Law, *Salus Populi*: the element of all lawes, out of which they are derived: the end of all Lawes, to which they are deſigned, and in which they are perfected.

'1. It is an offence comprehending other all offences. 'Here you ſhall finde ſeverall Treaſons, Murthers, Rapins, 'Oppreſſions, Perjuries. There is in this Crime, a Semi-'nary of all evills, hurtfull to a State; and if you conſi-'der the Reaſons of it, it muſt needs be ſo. The Law, 'is that which puts a difference betwixt Good and Evill: 'betwixt juſt and unjuſt. If you take away the Law, all *Nota.* 'things wiill fall into Confuſion; every man will become 'a law to himſelf, which in the depraved condition of hu- Hnd are they 'mane nature muſt needs produce many great enormities. not ſo now? 'Luſt will become a Law, and Envy will become a Law, *Nota.* 'Coveteouſneſſe and Ambition will become Lawes; and 'what Dictates, what deciſions ſuch Lawes will produce, 'may eaſily be diſcerned in the late Government of *Ire-'land*, (and *England* too ſince this.) The Law hath a po-'wer to prevent, to reſtrain, to repair evils: without this 'all kinds of miſchiefs and diſtempers will break it upon 'a State. It is the Law that doth the King to the 'alegi-'ance and Service of his people: it intitles the people to 'the Protection and Juſtice of the King, &c. *The Law is 'the Bondary, the meaſure betwixt the Kings prerogative, 'and the peoples liberty, whiles theſe move in their own Orb, 'they are a ſupport and ſecurity to one another: but if theſe 'Bounds be ſo removed that they enter into conteſtation and con-'flict, one of theſe miſchiefs muſt needs enſue. If the Preroga-'tive of the King overwhelme the liberty of the people, it will be 'turned into Tyranny: If liberty undermine the peprogative 'it will turne into Anarchy. The Law is the ſafegard, the cuſtody 'of all private intereſts, your honours, your lives, your liberties, 'and eſtates are all in the keeping of the Law, without this eve-*

'ry man hath a like Right to any thing: and this is the condition 'into which the Irish were brought by the Earle of Strafford, '(and the English by others who condemned him.) And 'the reason which he gave for it, hath more mischiefe 'than the thing it selfe: THEY ARE A CONQUER-'ED NATION (Let those who now say the same of 'England, as well as Scotland, and Ireland, consider and 'observe what follows,) *There cannot be a word more pregnant and fruitfull* IN TREASON, *then that word is,* 'There are few Nations in the world, that have not been con-'quered, and no doubt but the Conquerour may give what Laws 'he please, to those that are conquered. But if the succeeding 'Acts and agreements do not limit & restrain that Right, what 'people can be secure? England hath been conquered, and Wales hath been conquered; and by this reason will be in little better case then Ireland. If the King by the Right of a 'Conquerour give Lawes to his people, shall not the people by the 'same reason be restored to the Right of the conquered, To re-'cover their Liberty if they can? What can be more hurt-'full, more pernicious than such Propositions as 'these?

'2. It is dangerous to the Kings Person: and dang-'rous to his Crown: It is apt to cherish Ambition, u-'surpation and Oppression in great men: and to beget 'Sedition, Discontent in the people, and both these 'have been, and in reason must ever be causes of great 'Trouble and Alterations to Prince and State. If the 'Histories of those Easterne Countries be perused, where 'Princes order their Affaires according to the mischie-'vous Principles of the Earle of *Straffords* LOOSE and 'ABSOLVED FROM ALL RULES OF GOVERN-'MENT; they will be found to be frequent in combur-'stions, full of Massacres, and of the tragicall end of 'Princes. If any man shall look into our own Stories in *Hist.* 'the times, when the Laws were most neglected, he shall 'finde them full of Commotions, of Civil Distempers: 'whereby the Kings that then raigned were alwayes 'kept in want and distresse, the people consumed with

'CIVILL

'CIVILL WARRES; and by such wicked Counsels as 'these, some of our Princes have been brought to such mi- 'serable ends, *As no honest heart can remember without horror* * *Note this all whole Commons-house Opinion then.* 'and *earnest Prayer, that it may never be so again.*

'3. As it is dangerous to the Kings person and Crown, 'so it is in other respects very prejudiciall to His Majesty, 'in honour, profit and greatnesse (which he there proves 'at large, as you may there read at leasure) and yet these 'are the Guildings and Paintings, that are put upon such 'Counsells: These are for your Honour, for your 'Service.

'4. It is inconsistent with the Peace, the Wealth, the 'Prosperity of a Nation. It is destructive to Justice, 'the Mother of Peace: to Industry, the Spring of Wealth; 'to Valour, which is the active vertue, whereby the pro- 'sperity of a Nation can onely be procured, confirm- 'ed, and enlarged. It is not onely apt to take away Peace, 'and so intangle the Nation with warres, but doth cor- 'rupt Peace, and powres such a malignity into it, as pro- 'duceth the effects of Warre: both to the * NOBILITY *Is not this an experimental truth now?* 'and others having as little Security of THEIR PER- 'SONS OR ESTATES, in this peaceable time, as if the 'Kingdome had beene under the fury and rage of Warre. 'And as for Industry and Valour, who will take paines 'for that, which when he hath gotten, is not his own? 'or who fights for that wherein he hath no other interest, 'but such as is subject to the will of another? &c. 'Shall it be Treason to embase the Kings Coine; though 'but a piece of twelve pence or six pence, and must it not 'needs be the effect of GREATER TREASON to * *And were they ever so base, cowardly, slavish as now?* 'embase the Spirits of his Subjects, and to set a stamp 'and Character of Servitude upon them, whereby they 'shall be disabled to do any thing for the Service of the 'King or Common wealth?

'5. In times of sudden danger, by the Invasion of an 'enemy, it will disable his Majesty to preserve himself and 'His Subjects from that danger. When Warre threatens a 'Kingdome, by the comming of a forreign enemy, it is no

'time then' to discontent the people, to make them wea-
'ry of the PRESENT GOVERNMENT, and more in-
'clinable to a change. The Supplies which are to come in
'this way, will be unready, uncertain; there can be no assu-
'rance of them, no dependence upon them, either for time
, or proportion. And if some money be gotten in such a
'way, the Distractions, the Divisions, Distempers, which
this cause is apt to produce, will be more prejudiciall to
the publick safty, than the Supply can be advantageous to
it.

6. *This crime is contrary to the Pact and Covenant between*
'*the King and his people, by mutuall agreement and stipulation,*
'*confirmed by* OATH *on both sides.*

'7. *It is an Offence that is contrary to the ends of Govern-*
'*ment.*

'1. *To prevent Oppressions; to limit and restraine the exces-*
'*sive power and violence of great Men: to open passages of Ju-*
'*stice with indifference towards all.*

'2. *To preserve men in their Estates, to secure them in their*
'*Lives and Liberties.*

'3. *That vertue should be cherished, and vice suppressed: but*
' *where Laws are subverted, and arbitrary and unlimited power*
' *set up; a way is open not onely for the security, but for the*
'*Advancement and Incouragement of evill. Such men as are*
' * *apteſt for the execution and maintenance of this power are*
' *onely capable of Preferment, and others, will not be Instru-*
'*ments of any unjust commands, who make conscience to do any*
'*thing against the Law of the Kingdome, and Libberties of the*
'*Subject, are not only not passable for imployment*; but SUB
JECT TO MUCH JEALOUSY and DANGER, (Is not
'this their condition of late and present times? *expertus*
'*quor.*)

'4. *That all Accidents and events, all Counsels, and Designs,*
'*should be improved to the publick good. But this arbitrary power*
'*is apt to dispose all to the maintenance of it self.* And is it not
so now?

'8. *The Treasons of Subversions of the Laws, violation of*
'*liberties can never be good or justifiable by any circumstance or*
'*occasion,*

* *Was ever their power, violence so unlimited unbounded in all Kinds as now?*

* *Is it not most true of late and still?*

Nota.

'occasion, being evil in their own nature, how specious or good so 'ever they be pretended. He alledgeth it was a time of GREAT 'NECESSITY and DANGER, *when such Counsels were* Nota. 'necessary FOR THE PRESERVATION OF THE 'STATE, (the Plea since, and now used by others, who 'condemned him:) *If there were any* NECESSITY IT 'WAS OF HIS OWN MAKING. *He by his evill Counsel 'had brought the King* (as others the Kingdome since) *into 'a necessity; and by no Rules of Justice can be allowed to gain 'this advantage to his Justification; which is a* GREAT 'PART OF HIS OFFENCE.

'9. As this is Treason in the natute of it, so it doth 'exceed all other Treasons in this; that in the Designe 'and endevour of the Authour, it was to be A CON-'STANT and PERMANENT TREASON; a standing, 'perpetuall Treason, which would have been in continu-'all Act, not dererminded within one Time or Age, but 'transmitted to Posterity, even from Generation to Ge-'neration. And are not others Treasons of late times such, proclaimed such, in and by their owne *Printed Papers*, and therein exceeding *Straffords?*

'10. As it is a crime *Odium* in the nature of it, so it is 'odious in the Judgement and Estimation of the Law. 'TO ALTER THE SETTLED FRAME AND CON-'STITUTION OF GOVERNEMENT IN ANY 'STATE. (Let those consider it who are guilty of it in the Highest Degree, beyond *Strafford, Canterbury*, or the *Shipmony Judges* in our own State) 'The Lawes whereby 'all parts of a Kingdome are preserved, should be very 'vaine and defective, if they had not a *Power to secure and 'preserve themselves*. The *Forfeitures* inflicted for *Treason* by 'our *Law*, are of *Life*, *Honour*, and *Estate*, even all that 'can be forfeited: and this *Prisoner*, although he should '*pay all these *Forfeitures*, will still be a *Debtor* to the *And others, 'Commonwealth*. Nothing can be more equall, *then that he* as well as he, 'should perish by the Justice of the Law, which he would have of farre infe-'subverted. Neither will this be a *New way of blood*. There rious place 'are marks enough to trace this *Law* to the very Origi- and estate.

nall

'nall of this Kingdome. And if it hath not been put in 'execution, as he alledgeth this 240 yeares; it was not 'for *want of Law*, but that all *that time had not bred a man* '* *bold enough to commit such crimes as these*: Which is a 'circumstance much aggravating his *Offence*, and making 'him no lesse liable to punishment, because he is THE '*ONELY MAN, that in so long a time hath ventured 'UPON SUCH A TREASON AS THIS.

* *But have not our times bred men much bolder then he, since this Speech was made, and he executed?*

Thus far Mr. *John Pym*; in the *Name* and by the *Order* and *Authority* of the whole *Commons House in Parliament*, which I wish all those, who by their *Words, Actions, Counsels* (and printed *Publications* too, *have traytrously endeavored to subvert the Fundamentall Lawes, Liberties of* England *and* Ireland, *and to introduce an arbitrary and Tyrannical Government against Law*, as much as ever *Strafford* did, and out stripped him therein, (ever since his execution) in all particulars, for which he was *beheaded*, would now seriously lay to heart, and speedily reform, lest they equall or exceed him in conclusion, in *Capitall punishments* for the same, or endlesse *Hellish Torments*.

* *Since he hath many followers.*

The next Authority I shall produce in point is, *The speech and declaration* of Mr. *Oliver St. John* at a Conference of both *Houses of Parliament*, concerning *Ship-mony* upon Judge *Finches Impeachment of High Treason*, January 14. 1640. printed by the *Commons Order*, *London*, 1641. where- 'in he *declares the sense of the Commons*. p. 12. &c. *That by the* 'Iudges *Opinions* (forecited) *concerning Ship-mony* THE 'FUNDAMENTAL LAWS OF THE REALM CON- 'CERNING OUR PROPERTY and OUR PER- 'SONS ARE SHAKEN. *Whose Treasonable Offence* here- 'in, he thus aggravates. p. 20. &c. The *Judges*, as is declared 'in the Parliament of 11 R. 2. are the *Executors of the Sta- 'tutes, and of the Judgements and Ordinances of Parliament*. 'They have here made themselves the *EXECUTIONERS 'OF THEM*: they have endevoured *THE DESTRU- 'CTION OF THE FUNDAMENTALS OF OUR LAWS and LIBERTIES*. *Holland* in the *Low-Countries* lies un- 'der the Sea: the *Superficies* of the *Land*, is lower than the

* *Have none done so since them?*

'the *Superficies* of the *Sea*. It is *Capitall* therefore for any 'man to cut the *Banks*, because they defend the Country. 'Besides our own, even Forreign Authors, as *Comines* 'observes, That the Statute *DE TALLAGIO*, and the 'other *old Laws* are the *Sea walls* and *Banks*, which keep 'the Commons from the inundation of the Prerogative. These * *Pioners* have not onely *undermined* these 'Banks, but they have *levelled* them even with the ground. 'If one that was known to be *Hostis Patriæ*, had done this, 'though the *Dammage* be the same, yet the *Guilt* is lesse; 'but the *Conservatores Riparum*, the overseers instructed 'with the Defence of these *Banks*, for them to destroy 'them; the *breach of Trust* aggravates, nay alters the na- 'ture of the offence. *Breach of trust*, though in a private 'Person, and in the least things, is *odious amongst all men*: 'much more in a publick Person, in things of great and 'publick concernement, because * GREAT TRUST 'BINDS THE PARTY TRUSTED TO GREAT- 'EST CARE AND FIDELITY.

See chap. 2. Proposition 1.

* Have not others Pioners and Jasses done the like?

* This is now grown a mere Parodox.

'It is TREASON in the *Constable of Dover-Castle* to deli- 'ver the Keys to the known enemies of the Kingdome, be- 'cause the *Castle is the Key of the Kingdome:* whereas if the 'house-keeper of a private person, deliver possession to his 'Adversary, it is a crime scarce punishable by Law. The '* *Judges* under his *Majesty*, are the Persons trusted with 'the Laws, and in them with the *Lives, Liberties and Estates* 'of the whole Kingdome. This Trust of all we have, if prima- 'rily from his *Majesty*, and* in him delegated to the *Judges*. 'His *Majesty* at his *Coronation* is bound by his *Oath* TO 'EXECUTE JUSTICE TO HIS PEOPLE ACCOR- 'DING TO THE LAWS, thereby to assure the people 'of the faithfull performance of his *Great Trust:* His Ma- 'jesty again, as he trusts to *Judges* with the performance 'of this part of his *Oath*; so doth he likewise exact ano- 'ther *Oath* of them, for their due execution of justice to 'the people, according to the Laws: hereby the Judges 'stand intrusted with this part of his *Majesties Oath*. If 'therefore the *Judges* shall do wittingly against the Law,

* What are they now of late times of publick Changes?

* See 27. H. 8. c. 24. 26. *Magna Charta.* c. 12. 26. 32. H. 3. c. 1. 3. 5. 9. 20 3 E. 1. c. 44. 45, 46. 13 E. 1. 10, 12. 30. 31. 35, 39. 44. 45. 25 E. 1. c. 1, 2. 27 E. 1. c. 2, 3. 34. E. 1. c. 6. 12 E. 2. c. 6. 2 E. 3. c. 3. 14 E. 3 c. 10. 16. *Rastal Justices.*

they

'they do not only break their *own oaths*, and therein the 'Common Faith *and trust of the whole Kingdome*, but do as 'much as in them lies, sperse and blemish the sacred 'Person of his *Majesty* with the odious and hateful sin of '* *Perjury*.

* *Was it ever so frequent a sin as now in all sorts of late Judges officers Subjects?*

'My *Lords*, the hainousnesse of this offence is most le-'gible in the * severe punishment which formour ages have 'inflicted upon those *Judges*, who have broken any part 'of their *Oaths* wittingly, though in things not so dan-'gerous to the Subject, as in the case in question. * Sir 'Thomas Wayland, Chief Justice of the *Common-pleas*, 17 E. '1. was attainted of *Felony for taking bribes*, and his *Lands* 'and *goods forfeited*, as appears in the *Pleas of Parlament*, '18 E. 1. and *he was banished the Kingdome*, as unworthy to 'live in the State against which he had so much offended.

* *Do none deserve as severe now?*

* *See Cooks 3. Instit. p. 146, 147. and f. 133 Hollished p. 284. 215. Speeds Hystory p. 551. Stow Walsingham, Daniel in 18. Ed. 1.*

'*Sir *William Thorp* Chief Justice of the *Kings Bench* in *Ed-'ward* the thirds time, having of five persons received 'five severall *Bribes*, which in all amounted to one hun-'dred pounds, was for this alone, *adjudged to be hanged, and* 'all his goods and Lands forfeited: The reason of the Judge-'ment is entered in the Roll in these words. *Quia predi-'ctus Wiliehmus* *Throp *qui Sacramentum Domini Regis erga* 'populum suum habuit ad custodiendum, fugit malitiosè falsò & 'rebeliter, quantum in ipso fuit*, There is a notiable decla-'ration in that Judgement, that this Judgement was not 'to be drawn into example, against any other officers, 'who should break their Oaths, bnt onely against those, 'qui predictum Sacramentum fecerunt, & fregerunt, & * ha-'bent Leges Angliæ ad custodiendum: That is onely to the 'Judges Oaths, who have the Laws intrusted unto them. 'This Judgement was given 24 E. 3. The next year in 'Parliament 25 E. 3. *Numb.* 10. it was debated in *Parlia-'ment*, whether this Judgement was legall? *Et nullo con-'tradicente*, is was declared, TO BE JUST AND AC-'CORDING TO THE LAW: *and that the* * *same Judge-'ment may be given in time to come upon the like occasion.* This 'case is in point, *That it is death for any Judge wittingly, to* 'break his oath in any part of it. Thrs oath of Thorp is entred in the

* *See Cooks 3. Instit. p. 145.*

* *Have none of thi, Name, or of his function since done the like in an higher degree?*

* *Let Custodes Legum & Libertatum Angliæ remember it.*

* *Let the Reporter and others consider it.*

'the Roll, and is the same *verbatim* with the Judges *Oath* 'in 18 E. 3. *and is the same which the Judges now take.* (And 'let those who have taken the same Oath, remember and 'apply this President, lest others do it for them.)

'Your *Lordships* will give me leave to observe the diffe-'rences between that and the case in question.

'1. That of *Thorp*, was only a selling of the *Law* by *Re-'tail* to those five persons; for he had five severall bribes, 'of these five persons; the Passage of the Law to the rest of 'the Subjects for ought appears, was free and open. But 'these *Opinions* are a conveyance of the *Law* by *wholesale*, and 'that not to, but from the Subject.

'2. In that of *Thorp*, as to those five persons, it was 'not an *absolute denyall of Justice*, it was not a *damming 'up*, but a *straightning only of the Chanel*. For whereas the '*Judges* ought *Judicium reddere*, that is, the Laws being '*THE BIRTHRIGHT and INHERITANCE OF THE 'SUBJECT*, the Judge when the parties in suit demand 'Judgment, should *redare*, freely restore the Right unto 'them; now he doth not *dare*, but *vendere*, with hazard 'only of perverting Justice; for the party that buyes the 'Judgment, may have a good and honest cause. But 'these *Opinions*, besides that they have cost the Subjects 'very dear, dearer then any, nay, I think I may truly say, 'then all the unjust Judgments that ever have been given 'in this Realm, witnesse the many hundred thousand 'pounds, which under colour of them have been levied 'upon the Subjects, amounting to * seven hundred thou-'sand pounds and upwards, that have been paid unto the 'Treasurer of the Navy, (in sundry years) besides what the 'Subjects have been forced to pay Sheriffes, Sherifes-'Bayliffes, *(and now an hundred times more to Troopers, and 'Souldiers, who forcibly levy their unlawfull Contributions, and 'Excises)* and otherwise; which altogether as is conce-'ved, amounts not to lesse then *a million* (in five years 'space, whereas now we pay above two Millions in Taxes, 'Imposts, Excises, every year) besides the infinite vexati-'ons of the Subject by suits in Law, binding them over,

* *This is nothing in comparison to the late Taxes or Excises imposed on the Subjects, without a Parliament assoun-ting to above 20 times as much as the Kings Shipmony, and more frequent, uncessant, and endless then it.*

'attendance at the Councel Table, taking them from 'their necessary imployments, in making Sesses, and Col-'lections, and imprisonment of their persons (all now 'trebled to what then) I say besides what is past, to make 'our miseries compleat, they have as much as in them is 'MADE THEM ENDLESSE (as others since have done) 'for by these *Opinions* they have put upon themselves and 'their Successors, *An impossibility of ever doing us right again,* 'and an incapacity upon us of demanding it so long as they continue (as the Compilers of the late *Instrument*, with 42. Strings, intituled, *The Government of the Common-wealth of* England, &c. *Artic.* 1, 2, 3 9, 10, 12, 22, 24, 25, 26, 27, 28, 31, 32, 36, 37, 38, 39. have done, as far as they, and much beyond them.)

'In that sore famine in the *Land of Egypt*, when the in-'habitants were reduced to the next door to death (for 'there they say, why should we die?) for bread, First 'they give their mony, next their flocks and Cattle, last 'of all their persons and Lands for bread; all became '*Pharaohs*; but by this *Lex Regia*, there is a transaction 'made, not only of our persons, but of our bread like-'wise, wherewith our persons should be sustained; that 'was for bread, this of our bread. For since these *Opini-'ons*, if we have any thing at all, we are not at all be-'holding TO THE LAW FOR IT, but are wholly 'cast UPON THE MERCY and GOODNESSE OF 'THE KING. Again, there the *Egyptians* themselves, sold 'themselves, and all they had to the King, If ours had 'been so done; if it had been so done by *our own free consent* '*in Parliament*, we had the lesse cause to complain: *But it* '*was done against our wills*, and *by those who were trusted*, and '*that upon Oath, with the preservation of these things for us.* 'The Lawes are our *Forts*, and *Bulwarks* of Defence: If the 'Captain of a *Castle*, only out of fear and Cowardize, 'and not from any *Compliance* with the enemy surrender 'it, This is TREASON, as was adjudged in Parliament, '1 R. 2. in the two Cases of *Comines* and *Weston*, and in 'the Case of the Lord *Gray*, for surrendring *Barwick* Ca-

stle.

'ſtle to the *Scots*, in *Edward* the thirds time, though good 'defence had been made by him, and that he had loſt his 'eldeſt ſon in maintenance of the Siege: and yet the loſſe 'of a *Caſtle* loſeth not the Kingdome, only the place and 'adjacent parts, with trouble to the whole. But by the '*Opinions*, there is a Surrender made *of all our Legall defence* '*of Property*: that which hath been preacht is now *judged*; 'that there is no *Meum & Tuum, between the King and people*; 'beſides that which concerns our Perſons.

'The Law is the *Temple*, the *Sanctuary*, whether Sub-'jects out to run for *ſhelter* and *Refuge*: hereby it is be-'come *Templum ſine numine*, as was the *Temple* built by the '*Roman Emperour*, who after he had built it, put no *gods* 'into it. We have the *Letter* of the *Law* ſtill, but not the '*ſenſe*: we have the *Fabrick of the Temple* ſtill, but the *Dii* '*Tutelares* are gone. But this is not all the Caſe, that is, '*That the Law now ceaſeth to aide and defend us in our Rights*, 'for then poſſeſſion alone were a good Title, if there were 'no Law to take it away: *Occupanti concederetur, & melior* '*eſſet Poſſidentis conditio*: But this: though too bad is not 'the worſt: for beſides that which is *Privitive* in theſe *O*-'*pinions*, there is ſomewhat *poſitive*. *For now the Law doth* 'not only not defend *us*, but the *Law it ſelf*, (by temporiſing 'Judges and Lawyers) *is made the Inſtrument of taking all* '*away*. For whenſoever his *Majeſty* or his *Succeſſors*, ſhall 'be pleaſed to ſay, *that the good and ſafety of the Kingdome* 'is *concerned, and that the whole Kingdome is in danger, the* 'when and how, *the ſame is to be prevented, makes our perſons and* 'all we have liable to bare will and Pleaſure. By this means, '*The Sanctuary is turned into a Shambles*; *the Forts are ſleight*-'ed, that ſo they might neither do us good nor hurt; *But* 'they are held againſt us by thoſe who ought to have held them for 'us, and the *mouth of our own Canon is turned upon our own* 'ſelves: and that by our own military Officers, Souldi-ers, and others ſince, as well as the Ship money Judges then) Thus farre Mr. *Oliver St. John* (by the Commons Order) whoſe words I thought fit thus to tranſcribe at large, becauſe not only moſt pertinent, but ſeaſonable for

the present times; wherein as in a Looking Glasse, some pretended Judges and Grandees, of these present and late past times, may behold their own faces and deformities; and the whole Nation their sad condition under them. In the residue of that his printed *Speech*, he compares the *Treason* of the *Ship-money Judges*, and of Sir *Robert Tresylium* and his Complices in XI. R. 2. condemned and executed for Traytors by Judgement in Parliament, *for endeavouring to subvert the lawes and statutes of the Realm by their illegall Opinions then delivered to King* Richard *at* Nottingham *Castle*, not out of *conspiracy*, but for *fear of death* and corporall *Torments* wherewith they were menaced: whose offence he there makes transcendent to theirs then in six particulars, as those who please may there read at leisure, being over large to transcribe, I could here inform you, that the Fundamentall lawes of our Nation, are the same in the Body politique of the Realm, as the Arteries, Nerves, Veins, are in, and to the naturall Body, the Bark to the tree; the Foundation to the House: and therefore the cutting of them asunder, or their Subversion, must of necessity, kill, destroy, disjoyne and ruine the whole Realme at once: therefore it must be Treason in the highest degree. But I shall only subjoyn here some materiall passages, in his *Argument at Law*, concerning the *Attainder of high Treason of* Thomas *Earl of* Strafford, *before a Committee of both Houses of Parliament in* Westminster *Hall*, April 29. 1641. soon after *printed and published by Order of the Commons House*: where in *p.* 8. he laies down his Position; recited again, p. 64.

That (Straffords) *Endeavouring* to subvert the Fundamentall Lawes and Government of *England* and *Ireland*, and instead thereof to introduce a tyrannicall Government against Law, is Treason by the Common-Law. *That Treasons at the Common-Law, are not taken away by the Statutes*, by 25. E. 3. 1. H. 4. c. 10. 1. Mar. c. 1. nor any of them.

The Authorities, Judgements in and out of Parliament which he cites to prove it, have been already mentioned,

tioned, with ſome others he omitted; I ſhall therefore but tranſcribe his Reaſons to evince it to be *Treaſon*, ſuperadded to thoſe alledged by him againſt the *Ship money Judges*.

Pag. 12. *It is a Warre againſt the King* (Let our Military Officers and ſouldiers conſider it) *when* intended *The alteration of the Lawes or Government in any part of them.* This is a levying Warre againſt the King (and ſo *Treaſon* within the Statute of 25 E 3.)

1. *Becauſe the King doth maintain and protect the Lawes in every part of them.*

2. *Becauſe they are the Kings lawes. He is the Fountain from whence in their ſeverall Channels, they are derived to the Subject. Whence all our indictments run thus: Treſpaſſes laid to be done, Contra pacem Domini Regis, &c. againſt the Kings Peace for exorbitant offences; though not intended againſt the Kings Perſon; againſt the King his Crown and dignity.*

Pag. 64. In this I ſhall not labour at all to prove, 'That the endevouring by words, Counſels and actions, '*To ſubvert the Fundamentall Lawes and Government of the* 'Kingdome *is Treaſon at the Common Law.* If there be any 'Common Law Treaſons at all left, NOTHING TREA-'SON IF THIS NOT, TO MAKE A KINGDOME 'NO KINGDOME. Take the Polity and Government 'away, *England's* but a piece of earth, wherein ſo many 'men have their commerce and abode, without rank or 'diſtinction of men, without property in any thing fur-'ther than in poſſeſſion, no Law to puniſh the murdering, 'or robbing one another.

'Pag. 70, 71, 72. *The horridneſſe of the offence in endea-'vouring to overthrow the Lawes and preſent Government,* hath 'been fully opened before. The *Parliament* is the repre-'ſentation of the whole Kingdome, wherein *The King as* 'Head, *your Lordſhips as the more Noble,* and *the Commons,* 'the other *Members are knit together in one body Politick.* This 'diſſolved, the Arteries and Ligaments that hold the body 'together, THE LAWES. He that takes away the Lawes, 'takes not away the Allegiance of one Subject only, but

'of the whole Kingdome. It was made *Treason* by the Sta-
'tute of 13. *Eliz.* for her time to affirm, *That the Lawes*
'*of the Realme doe not binde the descent of the Crown.* No
'Law, no descent at all, NO LAWES NO PEERAGE,
'no ranks nor degrees of men, the same condition to all.
'Its *Treason* to kill a Judge upon the Bench; this kils not
'*Judicem sed* JUDICIUM. There be twelve men, but no
'Law; never a Judge amongst them. *Its felony* to embe-
'zel any one of the Judiciall Records of the Kingdome:
'*THIS AT ONCE SWEEPS THEM ALL AWAY and*
'*FROM ALL.* Its *Treason* to counterfeit a twenty shil-
'ling piece: here's a counterfeiting of the Law: we can
'call neither the counterfeit nor the true coin our own.
'Its *Treason* to counterfeit the Great Seal for an Acre of
'Land: No property is left hereby to any Land at all,
'*Nothing Treason now, against King or Kingdome; No Law to*
'*punish it.*

'My Lords, If the question were asked in *Westminster*
'*Hall*, whether this were a Crime punishable in *Star Cham-*
'*ber*, or in THE KINGS BENCH, by Fine or imprison-
'ment? They would say, *It were higher.* If whether Fe-
'lony? They would say, That is an offence only against
'the life or goods of some one, or few persons. It would
'I beleeve be answered by the *Judges*, as it was by the
'Chief Justice *Thirning*, 21 R. 2. *That though he could not*
'*judge the Case* TREASON *there before him, yet if he were a*
'*Peer in Parliament; HE WOULD SO ADJUDGE IT.*
'(And so the Peers did here in *Strafford's*, and not long after
'in *Canterburies* Case, who both left their heads on Tower
'Hill.

I have transcribed these passages of Mr. *Oliver St. John* at large for five Reasons.

1. Because they were the voice and sense of the whole House of Commons by his mouth; who afterwards owned and ratified them by their speciall Order for their publication in print, for information and satisfaction of the whole Nation, and terrour of all others who should after that, either secretly or openly, by fraud or force, di-

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rectly or indirectly, attempt the ſubverſion of all, or any of our Fundamentall Laws, or Liberties, or the alteration of our Fundamentall Government, or ſetting up any arbytrary or Tyranicall Power, Taxes, Impoſitions, or new kinds of arbitrary Judicatories, and impriſonments againſt theſe our Lawes and Liberties.

2. To mind and inform all ſuch who have not only equalled, but tranſcended *Strafford* and *Canterbury* in theſe their *High Treaſons*, even ſince theſe *Publications*, *Speeches*, and their *exemplary executions*, of the hainouſneſſe, in excuſableneſſe, wilfulneſſe, maliciouſneſſe, Capitalneſſe of their crimes; which not only the whole Parliament in generality, but many of themſelves in particular, ſo ſeverely proſecuted, condemned, and inexorably puniſhed of late years in them: that ſo they may bewail, repent of, and reform them with all ſpeed and diligence, as much as in them lies. And withall, I ſhall exhort them ſeriouſly to conſider that Goſpel terrifying paſſage, *Rom.* 2. 1, 2, 3. *Therefore thou art inexcuſable O man, whoſoever thou art that judgeſt; for wherein thou judgeſt another, thou* CONDEMNEST THY SELF, FOR THOU THAT JUDGEST, DOEST THE SAME THINGS. *But we are ſure that the judgement of God is according to truth againſt them which commit ſuch things. And thinkeſt thou this, O man, that judgeſt them which do ſuch things, and doeſt the ſame, that thou ſhalt eſcape the Judgment of God.*

3. To excite all Lawyers, expecially ſuch who of late times have taken upon them the ſtile and power of Judges, to examine their conſciences, actions, how far all or any of them have been guilty of theſe crimes and Treaſons, ſo highly agravated, and exemplarily puniſhed of former and latter times, in corrupt, cowardly time-ſerving, degenerate Lawyers and *Judaſſes*, rather then *Judges*, to the diſgrace of their Profeſſion, and prejudice of the Fundamentall Lawes, Liberties, Rights, Privilledges of our Nation, Peers, Parliaments, ſubverſion of the Fundamentall Government of this famous Kingdome, whereof they are Members.

4. To.

4. To instruct those *Jesuited Anabaptists, Levellers* and their Factors (especially *John Canne*, and the rest of the Compilers, Publishers, Abetters of the Pamphlet intituled, *Lieutenant Colonel Lilburn, tryed and cast*, and other forementioned publications:) who professedly set themselves by words, writing, Counsels and overt Acts to subvert both our old Fundamentall (and all other Laws) Liberties, Customes, Parliaments and Government, what transcendent *Malefactors, Traytors and Enemies they are to the publick*, and what *Capitall punishments*, they may thereby incurre, as well as demerit, should they be legally prosecuted for the same; and thereupon to advise them timely to repent of, and desist from such high *Treasonable Attempts*.

5. To clear both my self and this my seasonable *Defence of our Fundamentall Lawes, Liberties, Government*, from the least suspition or shadow of *Faction, Sedition, Treason*, and *Enmity* to the publick peace, weal, settlement of the Nation, which those, (and those only) who are most Factions and seditious, and the greatest Enemies, Traytors to the publick tranquility, weal and establishment of our Kingdome, (as the premises evidence) will be ready maliciously to asperse both me and it, with, as they have done some other of my writings of this nature; with all which, they must first brand Mr. *St. John*, Mr. *Pym*, the whole *House of Commons*, the last two, with all other Parliaments forecited, ere they can accuse, traduce, or censure me, who do but barely relate, apply their words and judgments without malice or partiality, for the whole Kingdomes benefit and security.

To these punctuall full Jury of Records and Parliamentary Authorities in point, I could accumulat Sir *Edward Cook* his 3. Institutes, p. 9. printed and authorised by the House of Commons speciall Order, the last Parliament: The severall Speeches of Mr. *Hide*, Mr. *Walker*, Mr. *Pierpoint* and Mr. *Hollis*; *July* 6. 1641. at the Lords Bar in Parliament, by order of the Commons House, at the *Impeachment of the Shipmony Judges of High Treason*, printed

printed in *Diurnall Occurrences, and ſpeeches in Parliament*, London 1641. p. 237. to 264. Mr. *Samuel Browns* Argument at Law before the Lords and Commons at *Canterburies* Attainder; all manifeſting, their endevouring to ſubvert the Fundamentall Laws and government of the Nation to be *HIGH TREASON*; with ſundry other printed Authorities to prove, That we *have fundamentall Laws, Liberties, Rights, and a fundamentall Government likewiſe, which ought not to be innovated, violated, or ſubverted upon any pretences whatſoever, by any power or prevailing Faction.* But to avoid prolixity, (the double *Jury* of irrefragable and punctuall Authorities already produced, being ſufficient to ſatisfie the moſt obſtinate Oppoſites formerly contradicting it) I ſhall onely adde three ſwaying Authorities more, wherewith I ſhall conclude this point.

The firſt is a very late one, in a Treatiſe intituled, *A true State of the Common wealth of* England, Scotland *and* Ireland, *and the Dominions thereunto belonging, in Reference to the late eſtabliſhed Government, by a Lord Protector and a* PARLIAMENT. It being the Judgement of DIVERS PERSONS, *who throughout theſe late troubles, have* approved *themſelves faithfull to the Cauſe and intereſt of God, and their* COUNTRY: *preſented to the Publick, for the ſatisfaction of others.* Printed at *London* 1654. who relating the miſcarriages of the laſt *Aſſembly at Weſtminſter*, uſe theſe expreſſions of them, p. 13, 14, 16, 17, 21, 22. *But on the contrary, it ſo fell out in a ſhort time, that there appeared many in this Aſſembly of very contrary Principles to the intereſt aforeſaid, which led them violently on to attempt and promote many things, the conſequence whereof would have been:* A Subverting of the fundamentall Laws of the Land, the Deſtruction of Property, and an utter extinguiſhment of the Goſpel. *In truth their Principles led them* TO A PULLING DOWN ALL AND ESTABLISHING NOTHING. *So that inſtead of the expected ſettlement, they were running out into* FURTHER ANARCHY and CONFUSION. *As to the Laws and Civil Rights of the Nation, nothing would ſerve them, but* A TOTALL ERADICATION OF

THE OLD, and INTRODUCTION OF A NEW: and ſo the *Good, Old Laws of* England, *(the Guardians of our Lives and Fortunes)* eſtabliſhed with prudence, and confirmed by the experience of many Ages and Generations: *(The Preſervation whereof, was a principall Ground of our late Quarrel with the King)* having been once aboliſhed, what could we have expected afterward, *but* an inthroning of Arbitrary Power in the Seat of Judicature, and an expoſing of our Lives, our Eſtates, our Liberties, *and* all that is dear unto us, as a Sacrifice to the boundleſſe Appetite of Meer Will and Power, *&c.*

Things being at this Paſſe, and the Houſe (through theſe proceedings) perfectly diſjointed, it was in vain to look for a ſettlement of this Nation from them, thus conſtituted: but on the contrary, nothing elſe could be expected, But that the Commonwealth ſhould ſink under their Hands, *and the great cauſe hitherto ſo happily upheld and maintained, to be for ever loſt, through their prepoſterous management of theſe affairs, wherewith they had been intruſted.* Whereupon they juſtifie their diſſolution, and turning them forcibly out of doores by the *Souldiers*, with ſhame and infamy; to prevent that deſtruction which thereby was coming on *THE WHOLE LAND*, but this New *Powder Treaſon* Plot, ſet on foot by the *Jeſuites* and *Anabaptiſts*, to deſtroy our Laws, Liberties, properties, Miniſters, and Religion it ſelf, at one blow, and that in the very *Parliament Houſe*, where they had been conſtantly defended, vindicated, preſerved, eſtabliſhed in all former ages *by all true Engliſh Parliaments.*

The ſecond is, [a] The *Votes of the Houſe of Commons*, concerning a Paper preſented to them, entituled *An agreement of the people for a firm and preſent peace, upon grounds of Common Right* 9. November, 1647. *viz.*

[a] *See my Speech in Parliament. p.* 100. *to* 108.

Reſolved upon the Queſtion, That the matters contained in theſe Papers, Are deſtructive to the being of Parliaments, and to the Fundamentall Government of this Kingdome,

Reſolved, &c. That a Letter be ſent to the Generall and thoſe Papers incloſed, together with the Vote of this Houſe upon them; And that he be deſired to examine the proceedings of this

this buſineſſe in the Army (where it was firſt coined) *and return an Accompt hereof to this Houſe.*

Theſe Votes were ſeconded ſoon after with theſe enſuing votes, entred in the *Commons Journall*, and printed by their *ſpecial Order*, 23. November, 1647.

A *Petition* directed to the Supream Authority of *England*, the *Commons in Parliament* aſſembled, *The humble petition of many Free born people of* England, &c. was read the firſt and ſecond time.

Reſolved upon the Queſtion, that this petition is, *A ſeditious* and *contemptuous avowing* and proſecution of a former petition and paper annexed, ſtiled, an agreement of the people formerly *adjudged by this Houſe, to be Deſtructive to the being of Parliaments* and *Fundamentall Government of the Kingdome.*

Reſolved, &c. That *Thomas* Prince Cheeſemonger, and *Samuel Chidley*, be forthwith committed *priſoners* to the Priſon of the *Gatehouſe*, there to remain priſoners during the pleaſure of *this Houſe*, for *a Seditious avowing and proſecution* of a former Petition, and Paper annexed, ſtiled, *An Agreement of the people*, formerly *Adjudged by this Houſe to be deſtructive to the being of Parliaments* and *fundamentall Government of the Kingdome.*

Reſolved &c. That *Jeremy Jues*, *Thomas Taylor* and *William Larnar*, be forthwith committed to the Priſon of *Newgate*, there to remain *Priſoners*, during the pleaſure of this *Houſe*, for a *ſeditious and contemptuous avowing* and *proſecution* of a former Petition and Paper annexed, ſtiled, *An Agrement of the people*, *formerly adjudged by this Houſe*, to be deſtructive to the being of Parliaments *and* Fundamentall Government of this Kingdome.

Reſolved, &c. That a Letter be prepared and ſent to the Generall; taking notice of his proceeding in the execution (according to the Rules of *Warre*) of a *mutinous perſon* (avowing and proſecuting this agreement in the Army contrary to theſe Votes) at the Rendezvouz near *Ware*; and to *give him thanks for it*: and to deſire him to proſecute *that Buſineſſe the to bottome*; and to *bring*

Such guilty perſons as he ſhall think fit, to condigne and exemplary Puniſhment.

Reſolved, &c. *That the Votes upon the Petition and Agreement annexed, and likewiſe the Votes upon this Petition be forthwith printed and publiſhed.*

After which by a *Speciall Ordinance of both Houſes of Parliament*, 17 December, 1647. No perſon whatſoever, who had contrived, plotted, proſecuted or entred into that Engagement intituled The agreement of the people declared *To be deſtructive to the being of Parliaments*, and *Fundamentall Government of the Kingdome*, for one whole year, was to be elected, choſen or put into the office or Place of Lord *Mayor* or *Alderman*, *Sheriffe*, *Deputy of a Ward*, or *Common Councelman of the City of* London; or *to have a voice in the Election of any ſuch Officer.*

All theſe particulars, with the Capitall Proceedings againſt *White* and others who fomented this *Agreement in the Army*, abundantly evidence the verity of my foreſaid *Propoſition*, and the extraordinary guilt of thoſe Members and Souldiers, who contrary to their *own Votes*, *Ordinances*, *Proceedings and Cenſures of others*, have ſince proſecuted this, the like, or far worſe *Agreement*, to the deſtruction of our ancient Parliaments and their Priviledges, and the fundamentall Government, Laws and Liberty of our Nation, which I wiſh they would now ſadly lay to heart.

The third is the memorable Statutes of 3. *Jacobi* ch 1, 2, 3, 4, and 5. Which relating the old *Gunpowder Treaſon of the Jeſuites and Papiſts, and their infernal, inhumane, barbarous, deteſtable plot, to blow up the King, Queen, Prince, Lords, Commons, and whole Houſe of Peers with Gunpowder, when they ſhould have been aſſembled in Parliament, in the upper Houſe of Parliament, upon the fifth of* November, *in the year of our Lord* 1605. do aggravate the hainouſneſſe and tranſcendency thereof by this circumſtance, *That it was (as ſome of the principall Conſpirators thereof confeſſed) purpoſely deviſed and concluded to be done in the ſaid Houſe*, That where ſundry neceſſary *and* Religious Laws for Preſervation of

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the Church and State were made (*which they falsely and slanderously term, Cruel Laws enacted against them and their Religion*) Both Place and Persons should be all destroyed *and* blown up at once: And by these dangerous consequences if it had not been miraculously prevented, but taken effect. That it would have turned to the utter ruine, overthrow and Subversion *Of the whole State and Commonwealth of this flourishing and renowned Kingdome* and *Gods true Religion therein established by Law*, and of our Laws and Government. For which horrid Treason, they *were all attainted, and then executed as Traytors, and some of their Heads, Quarters, set up upon the Parliament House for terrour of others.* Even so let all other Traytors, Conspirators against our Fundamental Laws, Liberties, Government, Kings, Parliaments, and Religion, treading presumptuously in their Jesuiticall footsteeps, **perish O Lord, but let them who cordilally love*, and strenuously maintain them against all Conspirators, Traytors, Underminers, Invaders whatsoever, *be as the Sun when he goeth forth in his might: That the Land may have rest*, peace, settlement again, for as many years at least, as it had before our late innovations, Wars, Confusions, *by their restitution and establishment.*

See Speeds Hist. p. 1250 and Mr. John Vicar's History of the Gunpowder Treason, and the Arraignment of Traytors.

* *Judges* 5. 31

CHAP. II.

HAving thus sufficiently proved, *That the Kingdome, and Freemen of* England, *have some ancient, hereditary Rights, Liberties, Franchises, Priviledges, Customes, properly called FUNDAMENTALL, as likewise a Fundamentall Government, no wayes to be altered, undermined, subverted, directly or indirectly, under the guilt and pain of High Treason in those who attempt it; especially by Fraud, Force, or armed Power.*

I shall in the second place present you in brief Propositions, a *Summary* of the chiefest and most considerable of them, which our prudent Ancestors in former ages, and our latest reall Parliaments, have both declared to be, and eagerly contested for, as *Fundamentall* and Essentiall to their very *being* and *well being*, as a *Free people*, *Kingdome*, *Republick*, unwilling to be enslaved under any *yokes* of Tyranny or arbitrary power, that so the whole Nation may the more perspicuously know and discern them, the more strenuously contend for them, the more vigilantly watch against their violations, underminings in any kind, by any Powers, or Pretences whatsoever; and transmit, perpetuate them intirely to their posterities, as their best and chiefest inheritance.

I shall comprise the *Summe* and Substance of them all in these 9. Propositions; beginning with the Subjects Property, which hath been more frequently, universally invaded, assaulted, undermined by our Kings, and their evill instruments; and thereupon more strenuously, frequently and vigilantly maintained, retained by our Nobles, Parliaments and the people in all ages (till of late years) than any or all of the rest put together, though every of them have been constantly defended, maintained, when impugned, or incroached upon by our Ancestors and our selves.

1. That

1. That no Tax, Tallage, Aid, Subsidy, Customs, Contribution, Loan, Imposition, Excise or other Assessment whatsoever, for Defence of the Realm by Land or Sea, or any other publick ordinary, or extraordinary occasion, may or ought to be imposed, or levyed upon all or any of the Freemen of *England*, by reason of any pretended or reall Danger, Necessity or other pretext; by the Kings of *England*, or any other Powers, but onely with and by their common consent and Grant, in a free and lawfull Parliament duly summoned and elected: Except onely such ancient, legall Ayds, as they are specially obliged to render by their Tenures, Charters, Contracts, and the Common Law of *England*.

2. That no Freeman of *England* ought to be arrested, confined, imprisoned, in any private Castles, or remote, unusuall Prisons under Souldiers or other Guardians, but onely in usuall or Common Gaols, under sworn, responsible Gaolers, in the County where he lives, or is apprehended, and where his Friends may freely visit and relieve him with necessaries: And that onely for some just, and legall cause expressed in the Writ, Warrant, or Processe, by which he is arrested, or imprisoned; which ought to be legally executed by known, legal, responsible sworn Officers of Justice, not unknown military Officers, Troopers, or other illegall Catchpols, That no such Freeman ought to be denied bail, Mainprise, or the benefit of an *Habeas Corpus*, or any other Legal Writ for his enlargement, when bailable or incumpernable by Law; nor to be detained prisoner for any reall or pretended Crime, not bailable by Law, then untill the next Generall or Speciall Gaol-delivery, held in the County where he is imprisoned; where he ought to be legally tried and proceeded against, or else enlarged by the Justices, without deniall or delay of Right and Justice. And that no such Freeman may or ought to be outlawed, exiled, condemned to any kind of corporall punishment, losse of Life or Member, or otherwise destroyed or passed upon, but onely by due and lawfull Processe, Indictment, and the lawfull

lawfull Triall, Verdict and Judgment of his Peers, according to the good old Law of the land, in ſome uſuall Court of Publick Juſtice; not by and in a new illegall, Military, or other Arbitrary Judicatories, Committees, or Courts of High Juſtice, unknown to our Anceſtors.

3. That no Freeman of *England*, unleſſe it be by Speciall Grant and Act of Parliament may or ought to be compelled, enforced, preſſed or arrayed to go forth of his own Countrey (much leſſe out of the Realm into forreign parts) againſt his will in times of Warre or Peace, or except he be ſpecially obliged thereto by ancient Tenures and Charters; ſave onely upon the ſudden coming of ſtrang enemies into the Realm, and then he is to array himſelf onely in ſuch ſort, as he is bound to do by the ancient Laws and Cuſtoms of the Kingdome ſtill in force.

4. That no Freeman of *England*, may or ought to be diſinherited, diſſeiſed, diſpoſſeſſed or deprived of any inheritance, Freehold, liberty, Cuſtome, Franchiſe, Chattle, Goods whatſoever without his own Gift, Grant, or free Conſent, unleſſe it be by lawfull Proceſſe, Triall and Judgment of his Peers, or ſpeciall Grant by act of Parliament.

5. That the old received Government, Laws, Statutes, Cuſtomes, Priviledges, Courts of Juſtice, legall Proceſſe of the Kingdome and Crown ought not to be altered, repealed, ſuppreſſed, nor any new form of Government, Law, Statute, Ordinance, Court of Judicature, Writs, or legall Proceedings inſtituted or impoſed on all or any of the Free men of *England*, by any Perſon or Perſons, but onely in and by the Kingdomes free and full Conſent in a lawfull Parliament, wherein the Legiſlative Power ſolely reſides.

6. That Parliaments ought to be duly ſummoned, and held for the good and ſafety of the Kingdome every year, or every three years at leaſt, or ſo often as there is juſt occaſion. That the Election of all Knights, Citizens, and Burgeſſes, to ſit and ſerve in Parliament) and ſo of all other

other Elective Officers) ought to be free. That all Members of Parliament hereditary or Elective, ought to be present, and there freely to speak and vote according to their judgements and Consciences, without any overawing Guards to terrifie them; and none to be forced or secluded thence. And that all Parliaments not thus duly summoned, elected whilst held, but unduly packed, and all Acts of Parliament fraudulently and forcibly procured by indirect means, ought to be nulled, repealed, as void, and of dangerous president.

7. That neither the Kings nor any Subjects of the Kingdome of *England*, may or ought to be summoned before any Forreign Powers or Jurisdictions whatsoever, out of the Realm, or within the same, for any manner of Right, Inheritance, Thing belonging to them, or Offence done by them within the Realm.

8. That all Subjects of the Realm are obliged by Allegiance and duty to defend their Lawfull Kings, Persons, Crowns, the Laws, Rights and *Priviledges* of the Realm, and of *Parliament* against all Usurpers, Traytors, violence, and Conspiracies. And that no Subject of this Realm, who according to his duty, and Allegiance shall serve his King in his Warres, for the just defence of him and the Land, against Forreign enemies or Rebels, shall lose or forfeit any thing for doing his true duty, service, and Allegiance to him therein; but utterly discharged of all vexation, trouble, or loss.

9. That no publick Warre by Land or Sea ought to be made or levied with or against any Forreign Nation, or Publick Truce or League entred into with Forreign Realms or States, to bind the Nation, without their Common advice and consent in *Parliament*.

10. That the ancient, Honours, Manors, Lands, Rents, Revenues, Inheritances, Right, and perquisites of the Crown of *England*, originally settled thereon for the Ease & Exemption of the people from all kind of Taxes, payments whatsoever (unlesse in cases of extraordinary necessity) and for defraying all the constant, ordi-

nary expences of the Kingdome, (as the expences of the Kings houſhold, Court, Officers, Judges, Embaſſadors, Gariſons, Navy and the like) ought not to be ſold, alienated, given away or granted from it, to the prejudice of the Crown and burdening of the people. And that all Sales, Alienations, Gifts, or Grants thereof, to the empairing of the publick Revenue, or prejudice of the Crown and people, are void in *Law*, and ought to be reſumed, and repealed, by our *Parliaments* and *Kings*, as they have frequently been in all former ages.

For the Readers fuller ſatisfaction in each of theſe propoſitions (ſome of which I muſt ſhew here, but briefly touch, for brevity ſake, having elſewhere fully debated them in print) I ſhall ſpecially recommend unto him the peruſall of ſuch Tractates, and Arguments formerly publiſhed, wherein each of them hath been fully diſcuſſed, which he may peruſe at his beſt leaſure.

The firſt of theſe Fundamentalls (which I intend principally to inſiſt on) is fully aſſerted, debated, confirmed by 13. H. 4. f. 14. By *Forteſcue* Lord Chief Juſtice, and Chancellour of *England*, *de laudibus Legum Angliæ*, dedicated by him to King *Henry* the 6 f. 25. c 36. f. 81. By a *learned and neceſſary Argument againſt impoſitions in Parliament*, of 7. *Jacobi*: by a late *Reverend Judge*, printed at *London* 1641. By Mr. *William Hakewell*, *in his Liberty of the Subject againſt Impoſitions*, maintained in an *Argument* in the *Parliament* of 7. *Jacobi*: printed at *London* 1641. By *Judge Crooks*, *and Judge Huttons Arguments* concerning *Shipmony* both printed at *London* 1641. By the *Caſe of Shipmony* briefly *diſcuſſed London*, 1640. by Mr. *St. Johns Argument*, *and Speech againſt Shipmony*, printed at *London*, 1641. By Sir *Edward Cook* in his 1. Inſtitutes, p. 46. and 57. to 64. and 528. to 537. By the 1. and 2. *Remonſtrance of the Lords and Commons in Parliament*, *againſt the Commiſſion of Array*. Exact Collection p. 386. to 398. and 850. to 890. and by my own *Humble Remonſtrance againſt Shipmony*, London, 1643. *The fourth part of the Soveraign power of Parliaments and Kingdomes*, p. 14. to 26. and my Legall Vindications of the Liberties of *England*

England against Illegall Taxes, &c. *London* 1649. and by the Records and Statutes cited in the ensuing Chapter, referring for the most part to the first Proposition.

The second, third, and fourth of them are largely debated and confirmed by a *Conference desired by the Lords, and had by a Committee of both Houses, concerning the Rights and Priviledges of the Subject*, 3. *Aprilis*, 4. *Caroli* printed at *London* 1642. By Sir *Edward Cook* in his *Institutes* on *Magna Charta*. c.29. p. 45. to 57. By the 1. and 2. *Remonstrance of the Lords and Commons against the Commission of Array*, Exact Collection p.386. &c. 850. to 890. By *Judge Crooks, and Judge Huttons Arguments against Shipmony*: By Sir *Robert Cotton* his *Posthuma* p. 222. to 269. By my *Breviate of the Prelates encroachments on the Kings Prerogative, and Subjects Liberties*. p. 138. &c. My *new discovery of the Prelates tyranny*, p. 137. to 183. and some of the ensuing Statutes, and Records.

The fifth and sixth of them are fully cleared and vindicated in and by the Prologues of all our Councils, Statutes, Laws, before and since the Conquest. By Sir *Edward Cooks* 4. Institutes ch. 1. Mr. *Cromptons* Jurisdiction of Courts. Title, *High Court of Parliament*: My *Soveraign power of Parliaments and Kingdomes*, p. 1, 2, 3, 4. My *Legal Vindication against illegal Taxes*, and *pretended Acts of Parliament*, *London* 1649 *Prynne the Member, reconciled to Prynne the Barrester*, printed the same year. My *Historicall Collection of the ancient great Councils of the Parliaments of England*. *London* 1649. My *Truth triumphing over Falshood, Antiquity over Novelty*. *London* 1645. and some of the Records hereafter transcribed. In this I shall be more sparing, because so fully confirmed in these and other Treatises.

The seventh is ratified by Sir *Edward Cooks* 1. Institutes, p. 97, 98. 4. Institutes p. 89. and 5. Report *Cawdries* Case of the Kings Ecclesiasticall Lawes: and *Rastals* Abridgement of Statutes. Tit. *Provisors*, *Præmunire* and *Rome*, 11. H. 7. c. 1. and other Records and Statutes in the ensuing Chapter.

The eighth and ninth are fully debated in my *Sove-*

raign Power of *Parliaments and Kingdomes*, Part. 2. p. 3. to 34. Part fourth, p. 162. to 170. and touched in Sir *Robert Cottons Posthuma* p. 174. 179.

How all and every of these Fundamentall Liberties, Rights, Franchises, Lawes, have been unparalelledly violated, subverted, in all and every particular of late years beyond all Presidents in the worst of former ages, even by their greatest pretended *Propugners*; their own printed *Edicts*, *Instruments*, *Ordinances*, *Papers*, together with their illegall oppressions, Taxes, Excises, Impostes, Rapines, violences, Proceedings of all kinds, (whereof I shall give a brief accompt in its due place) will sufficiently evidence, if compared with the premised *propositions*. Which abundantly confirm the truth of our *Saviours* words, *John* 10. 1. 10. and this rule of *Johannis Angelius, Wenderhagen: Politicæ Synopticæ. lib.* 3. *c.* 9 *sect.* 11. *p.* 310. *Hinc Regulæ loco notandum*, Quod omnè Regnum Vi Armata acquisitum in Effectu Subditis Semper in durioris Servitutis conditiones arripiat, *licet à principio* Ducedinem prurientibus [illegible]are videatur. *Ideo cunctis hoc cavendum*, Nè temerè [illegible]uod patiantur.

FINIS.